

NOMINATION OF REED E. HUNDT TO BE A
MEMBER OF THE FEDERAL COMMUNICATIONS
COMMISSION

Y 4. C 73/7: S. HRG. 103-349

Nomination of Reed E. Hundt to be a...

HEARING

BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

SEPTEMBER 22, 1993

Printed for the use of the Committee on Commerce, Science, and Transportation



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NOMINATION OF REED E. HUNDT TO BE A MEMBER OF THE FEDERAL COMMUNICA- TIONS COMMISSION

WEDNESDAY, SEPTEMBER 22, 1993

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman of the committee) presiding.

Staff members assigned to this hearing: John D. Windhausen, Jr., staff counsel, and Rebecca A. Kojm, professional staff member; and Emily J. Gallop and Susan Adams, minority professional staff members.

OPENING STATEMENT OF SENATOR HOLLINGS

The CHAIRMAN. Good morning.

The committee will come to order.

The Commerce Committee meets today to hold a hearing on the nomination of Reed Hundt to the Federal Communications Commission. The President has indicated his intention to designate Mr. Hundt as Chairman, if he is confirmed. There are many important communications issues pending today and this hearing will give the committee an opportunity to review with the nominee his views toward telecommunications policymaking.

I am particularly interested in the views of the nominee on regulation. Under previous administrations, frequently all that we heard was deregulation and more deregulation. The Communications Act does not call for deregulation; it calls for appropriate regulation in the public interest, convenience, and necessity. I urge the nominee to show respect for this legislative mandate.

There are several specific communications issues of concern to me, in which the FCC will play an important role. With respect to television violence, it has become clear to me that violent programs on television have been increasing in number and in intensity. I am interested in the views of this nominee on this issue and in what steps he would take, if confirmed, to lower the level of violence of the airwaves.

There is also continuing concern with the FCC implementation of the 1992 Cable Act and its impact on consumers. The nominee must be particularly mindful of the congressional intent in passing that legislation.

The FCC has many other important matters pending before it, including issues relating to common carrier regulation, broadcast regulation, and spectrum allocation, to name a few. There is no doubt that the telecommunications world is changing rapidly, and the FCC will have a critical role in ensuring that technology advancements and service expansion are promoted, while at the same time ensuring that the public interest is protected.

I look forward to your testimony and to considering your nomination.

We want to welcome Mr. Reed Hundt, who is the nominee for the Chairmanship of the Federal Communications Commission. And before I start, let me yield to the chairman of our Communications Subcommittee, Senator Inouye.

OPENING STATEMENT OF SENATOR INOUE

Senator INOUE. Thank you very much, Mr. Chairman.

I wish to join you in welcoming Mr. Hundt, his family, and friends.

I say this because you have accepted a most difficult position to begin your public career, and you will need the close support of your family.

If I may so suggest, I believe, Mr. Chairman, that this nomination signals a changing of the guard. I think it is no secret that during the past few years we have had some difficulties with the FCC. Some have been philosophical. Some have been substantive. I just hope that the tide is changing and a new era will begin with the new Chairman of the Commission.

If I may suggest a few areas where change is needed, one is the public interest responsibility of the media. That touches upon children's educational TV, for example. We did so in 1990. We almost unanimously passed this bill. But evidence continues to pour in suggesting that the media continues to fail to serve the needs of our children. Whether the interest and issue is education or indecency or violence, I believe that the FCC must ensure that the concept of public interest regulation is restored and reinvigorated by the FCC.

So, I strongly encourage you, Mr. Hundt, to bring the public's interest back to the forefront in communications policy.

Second, there are many issues surrounding the growth and development of the Nation's telecommunications infrastructure. As you know, we have shifted from one of monopoly to one of competition. And so, for the first time, I believe it is possible to envision that every sector of the communications world could be subject to competition. But, potential, as you know, is not reality. And while deregulation can be appropriate where competition exists, excessive reliance on market forces and simplistic deregulatory policies I believe can be destructive and counterproductive.

So, you will be playing a very important role in guiding the development of market forces, without overburdening the industry or delaying technological innovation.

Mr. Chairman, before I close, I would like to take this opportunity to acknowledge publicly the tremendous contribution made by the interim Chairman of the Commission, Mr. Quello. His service at the FCC over the past two decades is without comparison.

And since early this year, Mr. Quello has assumed the difficult task of overseeing the operations of the FCC during this very hectic period of transition. And his stewardship has been fraught with difficult issues.

For example, he has overseen the initial phases of the implementation of the 1992 Cable Act. And tomorrow, the FCC will issue rules for personal communication services, setting the framework for what promises to be the next revolution in wireless technology.

These are but two of the controversial issues that Mr. Quello has addressed head on. No one can accuse him of being just a caretaker chairman, for he has kept the trains running on time and he has not shirked his responsibilities to move communications policy forward.

And so, Mr. Chairman, I believe he should be commended for his leadership, and he deserves our gratitude for handling this thankless task in a professional and responsible manner.

In closing, Mr. Chairman, may I wish Mr. Hundt well in the challenges that lie ahead, and I look forward to working with you.

Thank you very much.

The CHAIRMAN. Well, I agree with everything you have said, particularly singling out Acting Chairman Quello. Jim Quello has been there two decades. He has always done an outstanding job. And he must be around, everybody is smiling.

There he is.

[Applause.]

The CHAIRMAN. I play tennis with him every now and again, and he gives me a lesson in humility each time, and my friends say I need it. [Laughter.]

Senator Danforth.

Senator DANFORTH. I agree with your statement, Mr. Chairman. [Laughter.]

The CHAIRMAN. Senator Stevens, do you have a statement?

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Thank you very much, Mr. Chairman.

I certainly echo what Senator Inouye has said concerning Jim Quello, and your remarks are very well taken. We all are grateful to him for the advice and counsel he has given us over the years. I did have an occasion to meet Mr. Hundt yesterday and discuss matters with him.

I have got to apologize to you, Mr. Chairman, that I have to go to another meeting. So, rather than make many comments, I would just like to ask that when you get a chance, that you tell the committee what you would propose to ensure access for noncommercial education programming in the new distribution technologies that you will be pursuing, if you have thought about that.

I would also call your attention to the fact that this committee had a series of amendments in the cable bill and also in the recent legislation that passed that pertained to spectrum auctioning that were deleted in conference, with the understanding that the FCC has the authority to deal with the issues that we thought should be specified in the legislation.

I do not want to hold up the committee by going through those one by one, but I would call your attention to the position of the

committee and to the statements that were made by the managers of the legislation that did pass on spectrum auctioning, that the FCC has the authority to carry out the objectives that were delineated by the Senate bill, and would urge that you do familiarize yourself with what has been twice now the intent expressed by the Senate in terms of the spectrum auctions.

We originated spectrum auctions. We believed in it. I did. And the committee has sustained that position. But, suddenly, the great magnet of enormous dollars had more to do with the spectrum concept than the principles we were pursuing in terms of eliminating the lotteries and establishing fairness in the allocation of the spectrum.

I would encourage you to pursue that if you agree.

Other than that, Mr. Chairman, I did discuss with Mr. Hundt my feelings that it was time to harness the activities of NTIA and the FCC and allocate responsibility so that one had responsibility for developing policy and the other had responsibility for implementing it. And I would repeat that here.

I do think that the great tumbling technologies that are out there that affect both of these entities do require that we try to find some way to channel them so that they can each perform their function without interfering with one another. And I think that that can be done, with the new administration and new people coming on board, I think could delineate the roles of the two agencies much better than they have been in the past.

I appreciate your courtesy, Mr. Chairman. Thank you very much.

The CHAIRMAN. Very good. Senator Pressler, do you have a statement?

OPENING STATEMENT OF SENATOR PRESSLER

Senator PRESSLER. Thank you very much, Mr. Chairman. I shall place much of my statement in the record, but I did want to say, first of all, that I had a meeting with Mr. Hundt yesterday, and I look forward to asking some questions this morning.

I am concerned about some of the developments that are happening. I know that there has to be modernization with our regional telephone companies. In my State, there was concern about a loss of service that might occur from some of the decisions by US West to lay off a large number of people and reshuffle operations. There was an editorial in the Denver paper claiming that this is a further shift toward urban America—or suburban—away from rural America and small cities.

I also have been very concerned, because I have discovered that in some of our smaller cities—that is, populations of 10,000 to 15,000—they still have analog switches, not digital switches. The modernization of equipment has not occurred.

I point this out because it is the same struggle. We need to ensure universal service in telecommunications. More and more we are shifting away from inner city service and rural and small town service to suburban and urban. I know that not all these issues will be determined by you and the FCC, but this is a concern of mine—how to find a balance, how to preserve universal service, how to find a sense of fairness as our economy changes.

I do have several questions, and I look forward to hearing the witness.

Thank you, Mr. Chairman.

[The prepared statement of Senator Pressler follows:]

PREPARED STATEMENT OF SENATOR PRESSLER

Mr. Chairman, thank you for holding today's hearing on the nomination of Reed Hundt to Chairman of the Federal Communications Commission. Mr. Hundt, if confirmed, you will play a key role in determining the structure of today's telecommunications and media marketplace.

Every day brings another news story about a merger or joint venture in the communications industry. This week analysts speculate whether Viacom or QVC will win the \$9.5 billion battle for Paramount. Multibillion dollar companies are vying for strategic advantage in delivering communications, information, and entertainment to the American public. Earlier this year US West announced a \$2.5 billion partnership with Time Warner's entertainment and cable businesses. AT&T announced plans to purchase McCaw Cellular Communications for \$12.6 billion in stock.

Your experience as an antitrust attorney should prove valuable as the FCC grapples with regulating or deregulating these industries. I look forward to discussing your views.

The CHAIRMAN. Very good.

Senator Sarbanes and Senator Mikulski both wanted to be present to present the new chairman, but they express their regrets. They have sent statements and we will enter them into the record.

[The prepared statement of Senator Sarbanes and letter from Senator Mikulski follow:]

PREPARED STATEMENT OF SENATOR SARBANES

Mr. Chairman, I am very happy to introduce Reed Hundt to this committee and to welcome the many members of his family. Reed's parents moved to the Washington area in 1949, when Reed was only 1 year old. In 1961 his parents moved to Maryland, where Reed and his sister, Lindsey, and their families live today.

Reed went out of State to attend college and law school—to some school I believe Senator Lieberman is familiar with—but he returned to clerk for Chief Judge of the United States Court of Appeals Harrison L. Winter of Baltimore, a dear friend of mine who is now sadly deceased.

After starting with his law firm in their California office, Reed returned east in 1979 and became a Marylander again.

Democrats in Maryland have long appreciated the Hundts' many contributions to the State's political life, and we certainly are proud of Reed's nomination to chair the Federal Communications Commission.

I feel very strongly that the communications sector of our economy and the communications regulatory activities of our Government must be brought into a health and effective partnership if our economy is to continue to grow and add jobs as it must do. We can look forward to the real opportunity to add significantly to the size of our economy and to many benefits to consumers, teachers, workers, and small and large businesses if we are able to get our regulatory efforts right in this area. Indeed, it is estimated that as much as 20 percent of GDP will be in the communications sector by the end of the century.

Reed's entire career has been superb preparation for his rather daunting new responsibilities. He has had significant experience as a litigator and in the practice of antitrust and communications law. He is deeply committed to seeing the FCC prepared to meet the full range of complex problems and unique opportunities now facing us.

I urge you to confirm him and am grateful for this opportunity to express my support.

LETTER FROM SENATOR MIKULSKI

SEPTEMBER 21, 1993.

Honorable ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC 20510

DEAR CHAIRMAN HOLLINGS: I am writing to introduce my constituent Reed Hundt to head up the Federal Communications Commission. I had hoped to be there in person, but scheduling conflicts do not permit me to attend his hearing.

Reed Hundt has strong qualifications and experience on issues dealing with emerging technologies. He knows the challenges we will face in the 21st century and has also developed an expertise on antitrust and competition policy.

I commend Mr. Hundt to the committee.

Sincerely,

BARBARA A. MIKULSKI,
U.S. Senator.

The CHAIRMAN. We are honored to have two of our colleagues, Senator Joe Lieberman and Congressman Jim Cooper. Senator Lieberman.

**STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR
 FROM CONNECTICUT**

Senator LIEBERMAN. Thank you, Mr. Chairman.

In the absence of Senators Sarbanes and Mikulski, I am delighted to be here this morning to introduce to you an adoptive son—or I might say son-in-law—of the State of Connecticut, Reed Hundt, who has been nominated by the President to head the FCC.

The CHAIRMAN. If you go to Yale you become a son-in-law? [Laughter.]

I knew he was a son or something, but I just wanted to check that with you. [Laughter.]

Senator LIEBERMAN. I was debating whether to reveal that Yale was one of the contacts we had for fear that it would jeopardize his nomination. [Laughter.]

But I do want to say that he left New Haven with more than a good education. He left with a wonderful wife. And it is in that sense that he is a son-in-law. And I would like to acknowledge and welcome her.

The CHAIRMAN. Senator, would it be good to yield at this time to present his family? I understand some are in the audience. Would they please stand.

Senator LIEBERMAN. His wife, Betsy, and her parents, Elinor and Dick Katz of New Haven.

The CHAIRMAN. Thank you. We are very glad to have you here with us. [Applause.]

Senator LIEBERMAN. Would you like other family members introduced now, Mr. Chairman?

The CHAIRMAN. Surely.

Senator LIEBERMAN. Why don't you do that.

Mr. HUNDT. Well, I should start with my eldest son, Adam. [Applause.]

Adam is 11, and Nathaniel will be 8 in 8 days exactly. [Applause.]

And our daughter Sara is 4. Sara asked me to press the case for more cartoons in TV programming. [Laughter.]

And I give this message to you. She had a more pressing engagement at nursery school this morning.

The CHAIRMAN. Very good.

Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman.

I have known Reed probably for more years than we would like to admit, although I have obviously many more years to conceal than he does. But we met when he followed me a few years later at both Yale, working on the Yale Daily News, which is our most intimate source of contact, and then through Yale Law School.

And just to bring it up to date, we have been privileged to meet each other on car pools in more recent years, when we have dropped our younger children off at the same nursery school.

Mr. Chairman, while at Yale, it is possible that Reed Hundt achieved his greatest success, particularly on the Yale Daily News, when he discovered and first published a young cartoonist who drew pictures of an odd collection of Yale students including B.D. and Boopsie. And I refer to the incomparable G.B. Trudeau. I gather that Reed was not fortunate enough to negotiate an early agreement for a percentage of Trudeau's later royalties, but it was under his stewardship that Doonesbury first was published in the Yale Daily News.

I do not know that anything Reed will do as chairman of the FCC or in his later life will have quite as momentous an effect on our society as discovering Doonesbury. But, nonetheless, I am sure that Reed Hundt is very, very well equipped to take on the difficult and important issues that will face the FCC in the coming years.

He has been active in communications law. He has been active in public life, serving particularly as a valued counselor to the former member of this committee and current Vice President of the United States, Al Gore.

As an antitrust lawyer, Reed Hundt is particularly well schooled in the principles of economic regulation and competition policy, which are critical to understanding and grappling with the complex regulatory issues presented by merging companies and technologies.

I am confident that Reed Hundt understands that sophisticated and vigilant regulators are particularly important in these times of revolutionary technological changes in the communications field. Consumers have a right to expect that we, their elected officials and appointed regulators, will be watchful of monopolies and unfair prices and market failures as the communications businesses go through this time of very, very rapid change.

Consumers deserve and expect to have the opportunity to choose among competitively priced products, whether they are tangible consumer goods or intangible but increasingly valuable communications services.

Mr. Chairman, I believe that Reed Hundt has all the experience, ability, and steadfast commitment to hard work to make an excellent Chair of the Federal Communications Commission. I thank President Clinton for nominating him, and I urge the committee to report his nomination favorably to the full Senate.

I thank you, Mr. Chairman and members of the committee.

The CHAIRMAN. Very good. Congressman Cooper.

**STATEMENT OF HON. JIM COOPER, U.S. REPRESENTATIVE
FROM TENNESSEE**

Mr. COOPER. Thank you, Mr. Chairman. I too have the pleasure of introducing to you and the distinguished members of your committee the President's nominee to be Chair of the Federal Communications Commission, my good friend, Reed Hundt.

I've known Reed personally for more than 5 years, but even before we became acquainted, I was aware of his reputation as a top litigator, and a top antitrust and telecommunications lawyer.

His expertise and deep understanding of the underlying policy issues relevant to the technology and communications revolutions will make Reed an outstanding Chair of the FCC.

Reed's practice at Latham & Watkins, one of the country's most prestigious national law firms, is impressive both in the breadth of his experience and the depth of his knowledge on the legal principles relevant to being the FCC Chair.

Reed Hundt's courtroom experience alone is remarkable. He has litigated cases in more than 20 States before dozens of State and Federal court judges and juries, before administrative law judges and government agencies, and before numerous U.S. courts of appeal.

More significant, however, is the fact that through these experiences and his participation as a founding member of his firm's telecommunications law practice, Reed has been deeply involved in all facets of telecommunications, telephone company regulation, cable programming access, merger policy, minority rights, indecency, fraud, and first amendment issues.

Further, Reed has a grounding in those issues which underlie telecommunication policy. Reed has become an acknowledged expert in the field of antitrust law. Moreover, Reed has also developed a deep understanding of the important issues involved in other areas of the law such as environmental, patent, securities, commercial, employment law, trade law, even criminal law and constitutional law.

What has also impressed me is that despite his busy practice, Reed has spent a significant amount of his time in the service of his community by representing indigents and nonprofit organizations on a pro bono basis. Reed has represented clients on behalf of the NAACP's Legal Defense Fund and the American Civil Liberties Union, and has fought to preserve his hometown's historic landmarks through his work on behalf of the D.C. Preservation League.

In addition to his exceptional legal experience, Reed has developed a deep policy background on those issues which an FCC chair must deal with on a daily basis by having advised Vice President Al Gore since 1984 on economic, environmental, and antitrust issues, and also having worked with the economic policy group in President Clinton's transition.

Mr. Chairman, the United States is at a critical stage in the technology and communications revolutions. The telecommunications industry will play a key role in our Nation's future growth and productivity. The next FCC Chair thus must be someone who understands the intersection of technology, communications development, economics, and the applicable legal principles.

Mr. Chairman, I am confident that Reed Hundt has the ideal background, experience, and moral judgment to serve as the next FCC Chair, and that he is the right man to help lead this country through the telecommunications revolution and into the 21st century.

I thank you, Mr. Chairman.

The CHAIRMAN. Very good. We appreciate both of you being here this morning. You are welcome to sit with the committee, or if you have got other commitments, we understand.

Mr. Hundt, we also received a letter from our good friend, former Congressman Richard Pryor. Congressman Pryor gave a very, very strong endorsement of your nomination.

We would be delighted to hear from you at this time.

STATEMENT OF REED E. HUNDT, ESQ., NOMINEE TO BE CHAIRMAN OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. HUNDT. Mr. Chairman, I am grateful to you personally for your generosity and hospitality in welcoming me to your committee and to today's hearing.

I have had the pleasure of visiting with almost all the members of your committee in recent weeks. I also wish to thank them for their personal kindnesses, and for sharing their insights into communications policies with me. Those insights, as well as their thoughts in the future, will be invaluable to me should I be confirmed.

I also want to thank my distinguished sponsors from the Senate and the House. I am very grateful to them for their kind words, their personal encouragement, and their interest in communications policy.

I would especially like to endorse Senator Inouye's comments about Chairman Quello, who has given me guidance and advice that has been invaluable, and on a personal level is one of the most distinguished public servants in Washington.

I am immensely honored by the President's nomination of me to be Chair of the Federal Communications Commission. I realize that many exceptionally well qualified people could have been chosen for this exciting and challenging position. I am proud that I have been given the opportunity, Mr. Chairman, to ask for the support of this committee and the Senate.

I would like to share with the committee something about my background and to ask you to incorporate, if you would, in the record a full written statement that I have submitted to you.

The CHAIRMAN. It will be included, and you can highlight it as you wish.

Mr. HUNDT. Thank you very much, sir. My father served in the Navy in World War II and, thanks to the GI Bill, went to law school at the University of Michigan. That is the reason why, like Chairman Quello, I can claim Michigan as my birthplace. My father took his young family after graduation to the Washington area, looking for work which he found at the Navy Department, and this is where I grew up.

Neither of my parents are alive today. My mother died 25 years ago, and my father last November, weeks after the election. From early in my life and through my life, however, they inspired in me

an active curiosity about public affairs and a desire to serve the public interest.

I will not burden this committee with my childhood recollections of the Washington area of two generations ago, interesting as they may seem to me and to my psychologist wife. [Laughter.]

But I do want to recall for you if I might one of my earliest memories, a memory of the power of communications. It is the vision of the great lawyer Joseph Welch confronting the soon to be censured Joe McCarthy "live" on a tiny screen above my head and inside a large wooden box positioned, for reasons I could not comprehend, on the other side of my mother's ironing board. The screen in the box, of course, was a television.

As with this event of my childhood, for the last one-half of this century almost everyone in this country has experienced the memorable events of our history without being in the audience at, say, the Nixon-Kennedy debates, without driving to Florida for the Moon launch, without squeezing into the Lake Placid rink to see the United States win the Olympic hockey gold medal. Instead, we have been present at these events through the magical mediums of communication unique to this century—broadcast television, radio, telephone, cable, satellite.

Thanks to communications technology, the United States has become the largest community of shared daily experience in human history. I believe that in this shared experience we can find, to borrow the words of the Nobel Prize-winning poet, Czeslaw Milosz, "a command to participate actively in history."

That participation, that involvement with others, increasingly will occur through modern means of communication. And because of technological change, it will be an increasingly active and complex participation.

Because of almost universally available and ever cheaper telephone service, we have for decades now talked to each other constantly about world affairs and private matters. But in the near future that conversation will involve not only talk but also teaching and sharing with each other through video and information exchange by means of new communications technologies that will be commonplace in this country by the turn of the century.

These technologies in themselves, and in their effect on commercial activity, can generate tremendous economic growth and improved productivity.

Because of our great inventors like Morse, Edison, and Bell, and because of this country's entrepreneurial spirit, growth through new communications technologies has been a part of American development for more than 100 years, and it will continue if we have the will to make it so.

As we enter the 21st century, we have the potential to create here in this country an electronic golden age of discourse, entertainment, learning, and shared experience.

Perhaps the most important dimension of this growth is its effect on jobs. During the Great Depression my grandmother, Marge, a widow with a 9-year-old son later to be my father, kept the family going by working on the telephone switchboard at the local newspaper. That was a job created by the communications revolution.

In my lifetime, that same revolution eliminated that job, but not without creating new ones. And so this revolution will continue, making new jobs and changing old ones for my grandmother's great grandchildren.

It was not easy for my grandmother to master that switchboard. The work was exhausting and taxing. And it is far from easy for our workforce today to try to keep up with constant technological innovation.

The difficulty of this challenge is underscored by the Department of Education's recent conclusion that 90 million adult Americans cannot read or write well enough to hold a job with good wages and an opportunity for advancement.

My parents were the first members of their families to go to college. This was possible because of the fine and affordable public school system of the State of Wisconsin. What needs to be as fine and as accessible now is the expanding communications technology—the campus in the network, if you will.

Our communications technologies can create an electronic repository of knowledge that will permit all Americans to better their lives in the same way the University of Wisconsin enabled my parents to have a higher standard of living than their parents.

That is why the communications revolution must be accompanied by a renewed and redefined commitment to universal service. The networks of the next century will deliver not only voice traffic, but video and data in the form of digitized bits to be manipulated proactively by the family in the home.

But the power of these networks must be available to all Americans. Those who live in rural areas miles down the road from the nearest sophisticated switch or fiber optic cable must be just as connected to the communications revolution as every other American. Those who are suffering through a bout of unemployment must not be dropped off the network because they cannot pay some high fee. Our networks must build bridges, not walls. They must be meeting places, not dividing lines.

I know that determining exactly how universal service will be redefined in the next century is no easy task. One special purpose to which I would commit myself if confirmed is to work assiduously with Congress on this subject.

Jefferson said that we would probably need a revolution every generation to make America work. I believe that the revolution that will reinvent our American democracy for this generation is the communications revolution.

I do not intend to lose sight of practical concerns if confirmed. Throughout the Government, serious attention is being paid to operating in a cost-efficient and customer friendly manner. There are many outstanding public servants in the Federal Communications Commission, and an extremely able group of incumbent Commissioners.

If I am confirmed, I will be very proud to join with those already on board in striving to do our work in the most efficient way possible, and in minimizing regulation and redtape. I pledge further to work closely with Congress and to learn from all the Members as the Federal Communications Commission pursues its statutory mission.

And finally, I look forward to discussing with you today, and I hope in a continuing dialog thereafter, the evolving communications policies so important for our future.

Thank you very much.

[The prepared statement, biographical data, and prehearing questions and answers of Mr. Hundt follow:]

PREPARED STATEMENT OF REED E. HUNDT

I am immensely honored by the President's nomination of me to be chair of the Federal Communications Commission. I realize that many exceptionally well-qualified people could have been chosen for this exciting and challenging position. I am proud that I have been given the opportunity, Mr. chairman, to ask for the support of the Committee and the Senate.

I would like to share with the Committee something about my background in the hope of conveying how much it means to me to have the opportunity to participate in the communications revolution and to serve my country.

My father served in the Navy in World War II. After the war the GI Bill sent him to law school at the University of Michigan. That is the reason why, like chairman Quello, I claim Michigan as my birthplace. My father moved the family to the Washington area looking for work, which he found at the Navy Department.

Neither of my parents are alive today. My mother died 25 years ago and my father last November, weeks after the election. From early in my life, however, they inspired in me an active curiosity about public affairs and a desire to serve the public interest.

I will not burden you with my childhood recollections about the Washington area of two generations ago, interesting as they may seem at least to me * * * and my psychologist wife.

However, I do want to recall for you one of my earliest memories, a memory of the power of communications: it is of the vision of the great lawyer, Joseph Welch, confronting the soon to be censured Joe McCarthy "live" on a tiny screen in a box above my head positioned, for reasons I could not comprehend, on the other side of my mother's ironing board in the living room of our apartment. The screen in a box was called, of course, a television.

As with this event of my childhood, for the last half of this century almost everyone in this country has experienced the memorable events of our history without being in the audience at, say, the Nixon-Kennedy debates, without driving to Florida for the Moon launch, without squeezing into the Lake Placid rink to see the U.S. take the Olympic hockey gold medal. Instead, we have been present at these events through the magical mediums of communication unique to this century: broadcast television, radio, telephone, cable, and satellite.

Thanks to communications technology, the United States has become the largest community of shared daily experience in human history.

I believe that in this shared experience we can find, to borrow the words of the Nobel Prize winning poet Czeslaw Milosz, "a command to participate actively in history."

That participation, that involvement with others, increasingly will occur through modern means of communication. Because of technological change, it will be an increasingly active and complex participation.

During this century, much of our participation in each other's affairs has been by telephone. Because of almost universally available and ever cheaper telephone service, we have talked to each other constantly about world affairs and private matters.

In the near future, that participation in each other's lives will involve not only talk, but also teaching and sharing with each other through video and information exchange, by means of new communications technologies that will be commonplace in the country by the turn of the century.

These technologies can, in themselves and in their effect on commercial activity, generate tremendous economic growth and improved productivity. Because of great inventors like Morse, Edison, and Bell and because of this country's entrepreneurial spirit, growth through new communications technologies has been a part of American development for more than 100 years. As we enter the 21st century we have the potential to create here, in our country, an electronic Golden Age of discourse, entertainment, learning and shared experience.

Perhaps the most important dimension of this growth is its effect on jobs. My grandmother Marge, a widow with a nine year-old son, later to be my father, kept the family going during the Great Depression by working on the telephone switchboard at the local newspaper. This was a job created by the communications revolu-

tion. In my lifetime that same ongoing revolution eliminated that job—but not without creating new ones. And so it will continue, making new jobs and changing old ones for my grandmother's great-grandchildren.

It was not easy for my grandmother to master that switchboard: the work was physically exhausting and mentally taxing. And it is far from easy for our workforce today to keep up with constant technological innovation. The difficulty of this challenge is underscored by the Department of Education's recent conclusion that 90 million adult Americans cannot read or write well enough to hold a job with good wages and an opportunity for advancement.

My parents were the first members of their families to go to college. This was possible because of the fine and eminently affordable public school system of the state of Wisconsin. What needs to be as fine and as accessible now is the expanding communications technology—the campus in the network, if you will. Our communications technologies can create an electronic repository of knowledge that will permit Americans to better their lives in the same way the University of Wisconsin enabled my parents to have a higher standard of living than their parents.

This is why the communications revolution must be accompanied by a renewed and redefined commitment to universal service. The networks of the next century will deliver not only voice traffic but video and data, in the form of digitized bits, to be manipulated pro-actively by the family in the home. But the power of these networks must be available to all Americans.

Those who live in rural areas, miles down the road from the nearest sophisticated switch or fiber optic cable, must be just as connected to the communications revolution as every other American. Those who are suffering through a bout of unemployment must not be dropped off the networks because they cannot pay some high fee. The networks must build bridges, not walls.

I know that determining exactly how universal service will be redefined is no easy task. One special purpose to which I would commit myself, if confirmed, is to work assiduously with Congress on this subject.

Jefferson said that we would probably need a revolution every generation to make America work. I believe that the revolution that will reinvent our American democracy for this generation is the communications revolution.

I do not intend to lose sight of practical concerns. Throughout the federal government, serious attention is being paid to operating in a cost-efficient and customer-friendly manner. There are many outstanding public servants in the Federal Communications Commission. The Commission has extremely able incumbent Commissioners. If I am confirmed, I will be proud to join with those already on board in striving to do our work in the most efficient way possible, and in minimizing regulations and red tape. I pledge further to work closely with Congress as the FCC pursues its statutory mission.

Finally, I look forward to discussing with you today and, I hope, in a continuing dialogue thereafter, the ever evolving communications policies so important for our country's future.

BIOGRAPHICAL DATA

Name: Hundt, Reed E.; address: 6416 Brookside Drive, Chevy Chase, MD 20815; business address: Latham & Watkins, 1001 Pennsylvania Avenue, N.W., Washington, DC 20004.

Position to which nominated: Chair, Federal Communications Commission; date of nomination: June 29, 1993.

Date of birth: March 3, 1948; place of birth: Ann Arbor, MI.

Marital status: Married; full name of spouse: Elizabeth Ann Katz; names and ages of children: Adam, 11; Nathaniel, 7; and Sara, 4.

Education: St. Albans School, 1961–65; Yale College, 1965–69, B.A.; and Yale Law School, 1971–74, J.D.

Employment: 1969–70, Philadelphia School System, Teacher; 1970–71, Schutz American School, Alexandria, Egypt, Teacher; 1971 (summer), Baraboo, WI, Laborer; 1971–72, Yale College, Teaching Assistant; 1972 (summer), Anderson, Pearson, Gadow & Hayes, Tacoma, WA, Summer Associate; 1972–73, Yale College, Counselor; 1973 (summer), Hughes, Hubbard & Reed, New York, NY, Summer Associate; 1974 (summer), Kirkland & Ellis, Washington, DC, Summer Associate; 1974–75, Judge Harrison L. Winter, Court of Appeals for the Ninth Circuit, Law Clerk; and 1975–present, Latham & Watkins, Washington, DC, Attorney.

Government experience: None.

Political affiliations: I have been actively involved in various Democratic political activities and elections in the last 10 years. These include the Gore for Senate 1984

and 1990 campaigns, the Gore 1987–88 Presidential campaign, the Clinton 1991–92 Presidential campaign, and each Democratic Presidential campaign since 1980. I have given policy advice and contributed financially to all of the above. In addition, I have contributed to various other candidates in the last 10 years, not all of which I recall. These include, however, the following: Virginian Lieutenant Governor Donald S. Beyer, Jr.; Kathleen Brown, State Treasurer of California; Virginian Attorney General Mary Sue Terry; Congressman Jim Cooper; Congresswoman Jane Harmon; Congressman Mel Levine; Lynn Yaekel; and Governor Jim Hunt.

Memberships: American Bar Association (including Litigation, Environmental Litigation, and Antitrust Sections); cochair of the international disputes subcommittee of the Environmental Litigation Committee of the ABA; Sierra Club; and California, Maryland, and District of Columbia bar associations.

Honors and awards: I was a National Merit Scholarship semifinalist in high school; I had an American Machine & Foundry scholarship in college; I was a member of the Yale Law Journal editorial board in law school (Book Review editor).

Published writings: With Richard S. Tedlow, "Cars and Carnage: Safety and Hazard on the American Roads," 4 *Journal of Policy History* 435 (1992); with Richard S. Tedlow, "Giants Lose Three Straight; Nazi Armies Take Paris," July–August 1990 *Harvard Magazine* 62; "Coping with Environmental Crisis," Fall 1988 *Texas Apartments* 31; "The Octopus Talks," 21 *DeKalb Journal* 11 (1988); "Defending Against Antitrust Division Investigations and Lawsuits," *Antitrust Adviser* (3d Ed. 1985); "Suing Municipalities Directly Under the Fourteenth Amendment," 70 *Northwestern University Law Review* 770 (1975); and Miscellaneous prelaw school articles in, e.g., *Washington Post* while interning there summer 1968.

PREHEARING QUESTIONS ASKED BY THE COMMITTEE AND ANSWERS THERETO BY MR. HUNDT

GENERAL

Question. What are your qualifications to be Chairman of the Federal Communications Commission (FCC)? What qualities would you bring to the FCC?

Answer. For the past ten years, I have had the opportunity to participate in the formation and development of a thriving communications law practice at my law firm. My clients have been from the cellular, telephone, broadcasting, programming distribution and satellite industries, among others. In representing these clients, I have become familiar with such complex communications issues as telephone company regulation, cable programming access, minority rights, indecency, First Amendment, merger policy, and new technologies. In addition, I have had a broad litigation experience of eighteen years in antitrust, commercial, and intellectual property matters. I believe my antitrust expertise gives me a particularly relevant background for tackling the complex issues facing the Commission in the questions of introducing or enhancing competition in a variety of regulated industries including telecommunications and entertainment services.

I have spent a significant amount of my legal career involved in issues of public policy. For example, I have represented public interest groups and indigent clients, including work on behalf of the American Civil Liberties Union and the NAACP Legal Defense Fund.

In addition, I have spoken and written on antitrust policy, and advised the Vice President on economic and antitrust issues. I also participated in the economic policy group during President Clinton's transition period.

I believe I would bring to the Commission an understanding of telecommunications technology and policy, a knowledge of the key industries, experience in developing legislative and regulatory solutions to complex problems, and a fresh perspective on current problems. Most importantly, I would bring a deep commitment to public service.

Question. What will be your highest policy priority for the FCC, if confirmed?

Answer. If confirmed, I would have a fundamental commitment to carry out the intent of Congress as expressed in its delegation of authority to the FCC in the Communications Act. In this context, my aim would be to achieve two principal objectives. The first is to promote economic growth for the American economy, and specifically to facilitate increases in productivity gains through telecommunications technology and services and thereby help reverse the continuing decline in real wages for American workers. The second is to ensure that the benefits of our communications systems are accessible to all Americans at affordable prices: No one should be left out of the communications revolution.

Question. Although it is inappropriate for you to comment on particular proceedings pending at the FCC, it is important for the Committee to understand your gen-

eral regulatory approach or philosophy. How would you describe your approach to communications regulation?

Answer. I believe we should attempt to understand how markets for goods and services in the telecommunications sector work or, in some cases, do not work efficiently. I believe regulatory or deregulatory steps should be taken as necessary to have markets that work efficiently, maximizing the benefits to consumers and the American economy.

Question. How would you assess the FCC's deregulatory actions over the past few years? Have they helped or hurt the American consumer?

Answer. There appears to be little question that, since the breakup of the former Bell system, many deregulatory actions taken by the FCC have helped expand telecommunications markets and encourage product innovation, with many attendant consumer benefits. The Commission's competitive carrier proceeding, introduction of competition in the interexchange market, deregulation of customer premises equipment, and transponder sales policies are a few examples of Commission deregulatory actions which appear to have benefited the American consumer. However, generally, I believe deregulation is not in itself an ultimate goal, but rather it is a means to an end. Promoting competition and eliminating excessive regulation are among the tools the FCC should use to pursue its mission, while continuing to monitor carefully the impact on consumers and American business of developments in the telecommunications markets.

Question. What role do you believe the FCC should play in telecommunications policymaking? On what issues do you believe that the FCC, among all the government agencies, should take the lead?

Answer. The FCC should strive to implement the will of Congress in the areas within the FCC's statutory jurisdiction, namely, "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." If confirmed, I will seek to ensure that new policies adopted by the FCC are consistent with that statutory mission and the FCC's public interest mandate. In addition, as an expert agency, the FCC should maintain the high level of its expertise—increase it if possible—and make that expertise available in an ongoing discussion with Congress and the Administration about communications issues. The FCC should take the lead among governmental agencies on issues that are within its expertise, pursuant to the authority delegated to the agency by Congress.

Question. How do you view the relationship between the FCC and the National Telecommunications and Information Administration (NTIA) with regard to the Administration's telecommunications infrastructure initiative? What role should the FCC play in promoting telecommunications infrastructure development?

Answer. The relationship between the FCC and NTIA should be close and constant in areas where they share a common purpose. As acknowledged in the Administration's National Information Infrastructure (NII) initiative, the FCC is charged by law with authority over a number of issues relevant to implementing the NII. The FCC's role will be to cooperate with NTIA and Congress to ensure that the NII is implemented in a manner that serves the public interest and fulfills Congressional mandates. Consistent with that, the FCC should participate in the policy development for the NII, exercising its statutory authority over spectrum allocation and licensing technologies and services that will be critical to the successful deployment of the NII. On a personal note, I have the highest regard for Larry Irving, NTIA's current Administrator, and I am particularly looking forward to working with him on these issues if I am confirmed.

Question. How active a role should the FCC take in promoting the interests of U.S. companies abroad? Do you believe that the FCC should play a stronger role concerning trade in telecommunications products and services?

Answer. The FCC should play an active role in the promotion of U.S. economic interests abroad through the exercise of authority that has been delegated to it by Congress. The FCC can play an important part in this area both through its domestic regulatory policies and by working in close cooperation with the Department of State and the United States Trade Representative. For example, the FCC has historically been active in international market access issues in its accounting rates and international settlements policy, separate satellite systems policy, and bilateral discussions. If confirmed, I would be committed to continuing and strengthening the FCC's contribution in these and other areas in order to improve the prospects for international trade in U.S. telecommunications equipment and services.

Question. How do you view the relationship between the FCC and the Congress? How will you ensure that there is communication between the FCC and Congress in the course of implementing communications policy?

Answer. The FCC exists because of Congressional action. The FCC's mandate is defined and will continue to be defined by Congress. Consistent with this fact, the FCC should be responsive to and engage in a continuing dialogue with all members of Congress in the areas of the agency's expertise. On a personal level, I have met with almost all the members of the Committee, as well as other members of Congress who have an interest in communications, in preparation for my confirmation hearing. If I am confirmed, I would hope that the discussions begun in these meetings will continue, and that through the dialogue between the Commission and Congress the FCC's actions would reflect the concerns of Congress.

Question. To what extent would you, if confirmed, propose to improve the operations of the FCC to allow it to fulfill its functions most efficiently?

Answer. It would be premature for me to try to give a comprehensive assessment of the FCC's operations. If confirmed, I hope to learn very quickly, from inside of the agency, about the FCC's internal operations and any impediments to the effective delivery of services the agency is supposed to be supplying to its customers—who include not only the regulated industries but also the American people. I expect that, if I am confirmed, the precepts on "reinventing government" set out in the Administration's National Performance Review would provide an excellent framework to begin to analyze the ways in which the FCC can improve its operations. I also want to listen to the individuals at the agency who know the Commission's areas of expertise and excellence the best, and know its weaknesses as well. One specific example I can cite, because it has been raised with me by so many people at the agency in informal conversations I have had over the past few weeks, is the feeling that the FCC itself should be an emblem of the communications technology and services it is charged with regulating. In this connection, many improvements may be possible through both better use of technology and better management of human resources. I hope I will have the opportunity to make a difference in this important area.

Question. If confirmed, what actions would you take in connection with increasing minority employment at the FCC?

Answer. I would like to learn in specific detail the facts concerning minority employment at the Commission and, if confirmed, this will be a priority for me. If minorities are under represented, I would attempt to understand why and take steps as the law permits to improve the FCC's record in this area. I personally believe all employers and employees profit from diversity in employment, and I am committed to ensuring that the Commission's hiring practices embody this principle.

COMMON CARRIER ISSUES

Question. What is your view of competition in the common carrier industry? In particular, to what extent do you believe competition in the provision of communications services serves the public interest?

Answer. It appears to be widely believed that competition is increasing in local exchange services, and that there is significant competition in long-distance services. To my knowledge, the Commission has not yet determined local exchange services to be fully competitive. There are a number of other relevant markets where various levels of competition are generally asserted to exist. If confirmed, one of my primary goals would be to analyze vigorously the levels of competition in all the various markets and submarkets that are subject to the FCC's jurisdiction. Generally speaking, competition can serve the public interest by maximizing output, lowering prices and increasing the number and variety of services available to the public.

Question. Are there areas of the FCC's regulation of common carriers that need to be altered? For instance, do you believe that the FCC should relax its regulation of dominant carriers or impose stricter regulations?

Answer. I think that it is appropriate to analyze regulation of common carriers on a continuing basis. As mentioned in my answer to a previous question, part of that analysis should be the determination of the levels of competition in the different markets subject to the FCC's jurisdiction. It is also appropriate to consider how regulatory processes can be streamlined so as to reduce the burden on the economy. One example is the FCC's regulatory forbearance policy which was reversed by the U.S. Court of Appeals for the Ninth Circuit. Although I do not want to comment on that specific litigation (which is currently under review on demand to the Commission), I generally commend Congressional efforts to consider reinstating that policy.

Question. How would you characterize the competition in the long distance industry; the local exchange industry; the international services industry; and the enhanced services industry?

Answer. Various sources assert different degrees of competition in these markets. While the Commission has made good progress in studying these issues, I believe that further examination is necessary to determine the correct market definitions as well as the degree of competition that exists in each such market. In fact, the markets mentioned are not geographically or demographically uniform. Furthermore, many different markets are subsumed within such terms as long distance or local exchange. If confirmed, I would energetically undertake the important task of defining the relevant markets and submarkets and carefully analyzing the level of competition in each.

Question. How well do you believe that the FCC has promoted universal telephone service? Do you believe that the definition of universal service should be expanded beyond "plain old telephone service"?

Answer. I think that the FCC, acting pursuant to Congressional intent, has promulgated over the years a regulatory regime that has promoted universal telephone service. These policies also have been implemented by state regulatory authorities. However, there is no doubt that the methods by which universal service has been implemented have changed over time as markets and technologies have changed, and it is certain that these methods will continue to change. Furthermore, the convergence of different industry sectors, driven by technological innovation, strongly suggests that it is appropriate at this time to reconsider the general definition of universal service so the benefits of the nationwide network, or national information infrastructure (NII), can be available to all Americans on an affordable, accessible and fair basis.

Question. How can we ensure universal service as competition develops for local telephone service? Should the obligation remain with the monopoly local telephone company, or should the obligation extend to all providers of telecommunications services?

Answer. Universal service is, or should be, one of the paramount goals of the government and specifically the FCC. I believe that, as competition is introduced to more and more parts of "the network," and as multiple networks emerge, the burden of funding universal service must be shared in an equitable manner by all service providers, and care must be taken to target subsidies so that individuals and homes do not drop off the network.

Question. What is your view of the role played by small telephone companies in preserving universal service?

Answer. Small telephone companies have historically provided and are providing an invaluable contribution to universal service. This is particularly true in those rural areas where the large telephone companies may not have had the responsibility of providing basic service. FCC regulatory policies must recognize the continuing importance of these companies to the national telecommunications infrastructure. I also would hope that as universal service is redefined, small telephone companies would take the lead, as small businesses have so often done, in innovation and job creation.

Question. Do you believe that the policy in favor of geographically averaged rates should be continued permanently?

Answer. As competition may increase in the telecommunications marketplace, any system of averaged rates comes under great pressure. Certain rates, such as local rates, have never been subject to a nationwide average. I understand that the Commission has been considering to what degree interstate long-distance rates should be permitted to be deaveraged. I would hope the record assembled by the Commission on this issue would project the effects that partial or total deaveraging would have on rates in high-cost areas.

MASS MEDIA

Question. Do you believe that the FCC was correct in repealing the Fairness Doctrine? In this regard, the FCC has stated that broadcast regulation should follow the "print" model because there is no longer a scarcity of broadcast outlets. Do you agree with that position?

Answer. If Congress mandates the Fairness Doctrine, of course the FCC will effectuate the intent of Congress. If no such doctrine is enacted by Congress, my own view is that the Commission should examine seriously not only the historical implementation of the Fairness Doctrine but also the principle behind it to determine whether the public is now able to obtain a reasonable diversity of views from broadcast stations on important matters of public interest. I would fully expect that this analysis would include an examination of the availability of broadcast outlets, as well as consideration of whether the doctrine has a "chilling" effect on free speech.

Question. There has been much discussion and debate over excessive violent content in television programming. What are your thoughts on this issue? What regulation, if any, is appropriate?

Answer. As I understand it, the scientific community has produced a persuasive body of studies tending to confirm that certain types of dramatized violence in video programming has some effect on human behavior and perceptions, and particularly on the behavior and perceptions of children. I believe almost all Americans would prefer to see less violence in television programming, and I certainly would endorse that preference. Regulation on this topic is extremely challenging for a variety of reasons including but not limited to First Amendment considerations. I am very mindful of these complexities. However, there are reasons to believe that technological innovation and an increasing consensus in society about excessive violence on television may lead to some breakthroughs in this area. I would hope that the Commission could be at the cutting edge in identifying solutions to this problem.

Question. Are you concerned about the amount of indecency on television? What should be done to limit indecent broadcasts?

Answer. As with violence in programming, there is in this country a tremendous amount of concern with indecency in television programming. In particular, I think many Americans would not approve of generally available indecent programming at times when children are likely to watch that programming. The constitutional limits on the FCC's current regulations relating to "channeling" indecency in programming are under review in the U.S. Court of Appeals for the District of Columbia Circuit, and I would not want to comment on that pending case. However, as a litigator, I have always worked very hard to win my cases, and I certainly would do everything in my power to ensure that if the Commission issues regulations in this area those regulations would be affirmed by the court. Similarly, if the Commission metes out sanctions for indecency in radio broadcasts, I would do everything in my power to make sure that those sanctions withstand judicial challenge.

Question. The FCC has rules limiting the common ownership of radio and TV stations as a means of promoting diversity. Broadcasters argue that these rules inhibit efficiency. In your opinion, should the FCC reconsider its rules limiting multiple ownership of media properties?

Answer. I understand that many broadcasters favor repeal of the so-called one-to-a-market rule because of changing market conditions. I do not know the record and I do not wish to prejudge an issue that is, I believe, currently before the Commission. However, in determining whether the rule still is a sound policy I would reexamine both the reasons for the adoption of the rule and the ways in which the current market may differ from market conditions that existed when the rule was adopted.

Question. What is your view of the responsibilities of broadcasters to serve the public interest? What is your view of the requirement that broadcasters serve their local communities?

Answer. I believe that broadcasters are public trustees. I also believe that spectrum scarcity underlies the requirement that they be responsive to the needs and interests of the communities they serve. With due deference to the First Amendment and the anti-censorship provisions of the Communications Act, I believe all broadcasters should focus on how they are serving local communities.

Question. Many AM radio stations are facing increasing competition and are facing difficult economic circumstances. Are you concerned about the economic viability of these radio broadcasters?

Answer. I am concerned about reports that many AM stations are having trouble competing in the market for media services. AM radio has played a significant part in the history of communications in this country; at one time, AM radio provided the backbone of American news and information services. If confirmed, I will study the state of this industry and, if it is in trouble, try to determine the causes of its decline.

Question. What are your views concerning the requirements on broadcasters with regard to children's programming?

Answer. I am aware of Congress's concerns about the amount of commercial material to which children are exposed and standards for children's programming generally, as embodied in the Children's Television Act of 1990. I also understand that the FCC is currently reviewing its rules implementing that Act to clarify the obligations of broadcast licensees under the statute. Without prejudging the Commission's rulemaking proceeding, I believe that the Commission should be faithful to the mandates of the Act and responsive to the concerns expressed by Congress that improvements be made in the amount and type of programming provided for children by broadcast licensees.

Question. The FCC has revised its Equal Employment Opportunity rules and policies to shift the focus from the numbers of minorities and women employed to a station's hiring efforts. Yet the percentage of minorities and women involved in broadcasting remains much lower than the general population. What are your thoughts concerning the need to increase minority employment and ownership of broadcast stations?

Answer. As noted above, I firmly believe in diversity in employment as good corporate policy, even where it is not required by law. In focusing on recruiting and hiring efforts rather than numbers, I believe the FCC properly encourages broadcasters (and, under the 1992 Cable Act, cable operators and other multichannel video programming distributors) to increase their outreach to the female and minority populations in their areas, to widen their searches for the best candidates for a position, and to recruit a diverse group of employees, without interfering with the employers individual employment decisions. I understand that, in response to statutory directive, the FCC also has implemented a mid-term review program which will enable it to follow television broadcasters' recruiting efforts more closely. If confirmed, I will examine the effect of the FCC's current policies on female and minority hiring in the broadcast industry.

Question. Do you support the FCC's policies which encourage minority and female ownership of broadcast stations—e.g., the preferences, tax certificate and distress sale policies?

Answer. I support programs to encourage minority and female ownership of broadcast stations.

Question. What are your views on the structure of the broadcast and media industries? Are you concerned about the increasing consolidation of these industries?

Answer. The relevant markets must be first defined and then evaluated to determine whether consolidation is enhancing or detracting from the quality and quantity of services available to the public. The Justice Department's Antitrust Division has always played an important role in guarding against excessive concentration in U.S. industries, but where FCC licensees are involved, the FCC also performs an antitrust analysis as part of its public interest determination under the Communications Act. If confirmed, I would especially welcome this aspect of the FCC's duties.

CABLE

Question. There have been many complaints in the last month about the FCC's rules implementing last year's Cable Act. These complaints appear to indicate that the FCC's implementation of the Act may not comply with Congressional intent. If confirmed, how would you address these concerns?

Answer. Initially, I would learn the facts. It is important to answer such questions as: How have program offerings changed? What are the programming rates on a per channel basis, tier basis, and aggregate basis for each franchisee? How have any changes affected the number of subscribers? What has happened with respect to the pricing and subscription of equipment? I know the FCC intends to look into these and other relevant matters, and has initiated a survey of the majority of cable systems nationwide. I would like to participate wholeheartedly in the FCC's examination of these factual issues. I also note that Representative Markey is chairing a hearing scheduled for September 28 which is intended to examine the preliminary results of rate regulation under the 1992 Cable Act.

After gaining an in-depth knowledge of the facts, it would be my intent to determine whether Congressional intent has been realized by the FCC's regulations implementing the 1992 Cable Act. If those regulations have had unintended consequences, they should be adjusted. In any event, I would be in close communication with Congress to make sure that you know how the Commission is implementing the statute and what the projected results of that implementation might be.

Question. If you are confirmed, what role would the FCC play, under your leadership, to ensure that customers continue to get access to broadcast signals through their cable systems?

Answer. Because broadcasters and cable system operators are expected to conclude retransmission consent negotiations by October 6, negotiations are reported to be at a critical stage right now. Although some of the larger cable system operators made broad statements about not paying for broadcast signals when the Cable Act was adopted, it is my hope that the broadcast and cable industries will reach an accommodation that results in customers having access to popular broadcast stations. If they do not, and I am confirmed, the Commission will examine the scope of the problem and explore whether it is within the Commission's statutory powers to address. If it is, we will address it; if not, I will inform Congress of that fact.

Either way, the Commission will do everything it can to carry out the intent of Congress and the mandate of the Act.

The CHAIRMAN. Thank you very much, Mr. Hundt. I have been on this committee some almost 27 years, and every once in a while we get a little jaundiced about things reaching a crisis stage. However, on last Sunday at my home in Charleston, SC, the manager and owner of the ABC affiliate, WCBD, came on in an editorial and admonished the viewers of channel 2, WCBD, to turn off NYPD Blues, that came on about 10 o'clock last night.

And we have had the network executives up from time to time. Mr. Quello can tell you, we have tried our best. And let us give credit to former chairman, Al Sikes. He was fining Howard Stern for the filthy language, the four letter words, and everything else.

But it has gotten pretty bad when the owner of the station comes on and says, "Turn me off" or "Go turn to a different channel." I would call that a crisis.

I want to find out your attitude and what you intend to do about it. Specifically, I know that I cannot restrict some of these programs under censorship at the late hours, but during primetime and the children's viewing time, the courts have upheld a certain amount of restriction. We have a bill in on that score. We will be having hearings on the 20th, leading off with very prominent witnesses from all sides.

Let us hear what the next Chairman of the FCC thinks about this.

Mr. HUNDT. As the father of three small children and the husband of a psychologist, I am very, very concerned about what I have read and heard about this troubling issue, particularly about the issue of violence in television programming.

As I understand it so far, and I certainly do not know all that I would like to know about this, the scientific community has produced an extremely persuasive body of studies tending to confirm that certain types of dramatized violence in video programming does have a negative effect on human behavior and perceptions, especially a negative effect on children.

I certainly think that it is meet, right, and proper for Congress to investigate this area, to explore what, within the confines of the first amendment and the anticensorship provision of the Communications Act, is possible, and to address this in the most vigorous way that it can.

The CHAIRMAN. Very good. On that score also, aside from the violence, there are children themselves and their programs. As Chairman Inouye mentioned, we passed the 1990 Children's Television Act. We even set up an endowment to help produce more educational television programs for children.

Do you have a comment about the implementation of this act, because the language of the act has not been changed at all since 1990, in the past 2 years? But do you have a comment about children's programming?

Mr. HUNDT. I think that it is certain that one of the main ways to address the issue of violence in programming or any other problem in programming that the public perceives is to make sure that there is a supply of really positive, useful programming, so that

parents and other advisors who actually want to address this issue can have some other programming to use.

Now, the Commission is taking another look at this particular issue and I would not want to comment on the specific proceeding, but I think it is very important for the Commission and for Congress to be very attentive to the purpose of that act to make sure it is fulfilled.

The CHAIRMAN. Well, I have been awaiting your chairmanship, and the full membership of the Commission. You can start in immediately on this.

Cable TV—we wrestled with that for 3 years. We finally got a bill passed on the premise that we were going to have some control of the costs, the charge having been made time and again that we were going to reduce the costs. They were going up, up, and away, far over and above—four times the inflationary rate.

Now I go home and find out the cost is going up, and they say it has been caused by the act that was enacted in order to cut the costs. Have you had a chance to look into this?

Mr. HUNDT. I have not learned all that I need to learn. I think it is fair to say the Commission itself feels that it needs to inquire into the facts more deeply.

But I do think that the intent of Congress was clear. While the act was not uncomplicated, the intent is clear, and it is to make sure that through regulation competitive fair prices are charged. And if that intent is not being implemented in the current regulatory scheme, or if the regulations are not being adhered to, that is a problem that I personally would like to roll up my sleeves and address as hard as I possibly can.

The CHAIRMAN. Very good. Senator.

Senator INOUE. Mr. Chairman, there is always a temptation at hearings such as this to trip the nominee. I have no intention of doing that. I have a whole list of very complex and technical questions on the industry itself which I would like to submit for Mr. Chairman's perusal.

The CHAIRMAN. That will be included.

Senator Danforth.

Senator DANFORTH. Mr. Hundt, you spoke very, very eloquently about what you called, a number of times, a revolution in communications. Senator Inouye and I have introduced S. 1086. The point of that legislation is to try to clear the way for such a revolution to take place. Our idea is that the marketplace can work, that infrastructure can be developed, not by Government building things but by making possible a marketplace where the private sector has the reason to develop that infrastructure.

I would like to hear what, if anything, you care to tell us about either S. 1086 and its specifics, or about the general thrust of that legislation, whether you believe that we are on the right track or the wrong track, whether you believe that the issues that are addressed in that legislation are worth addressing, whether you believe that it is timely to do so, or whether we should put this on the back burner and just sort of keep the status quo for an indefinite period of time.

Mr. HUNDT. What I admire most about that bill, Senator, is its ambition, its breadth, and its implicit and, indeed, explicit recognition of the importance of the topics that it purports to cover.

There is no question, I think, that certainly by the end of this decade we will have a new regulatory regime if we make the right calls here, and I mean we, the Government generally, we, the American people, and that will be appropriate for all of us, because if we make the right calls, we will see that the contribution that the communications sector can make to our economy in a whole variety of ways will be even greater than it otherwise might have been, and I think the bill takes on these issues.

There are many specifics in it, as you well know, and we have had a chance to discuss where, if I were confirmed, I would like to tap the expert resources of the Commission and provide whatever advice or guidance those resources might have for you in dealing with those specifics.

Senator DANFORTH. Now, if we are in a revolution, if we are in an ongoing revolution, if communications is progressing in a fast-paced way, then it would seem to me that to just study a matter to death would not be in service of that process of change. I mean, not that we want to do anything precipitous, but under the leadership of the chairman of our subcommittee we have had a number of hearings on this subject, and it is not a new subject. I mean, it is not something that just popped up out of the blue. You are not suggesting that—I hope you are not suggesting that—if we proceed on a very deliberate course, perhaps sometime by the end of this decade we might be in a position where we could change the regulatory scheme which we now have.

Mr. HUNDT. No, I really meant to be making a prediction. I think there is real urgency here. It is dramatized for me by the following facts:

In 1990, approximately 12 percent of our GNP was attributable to communications and information service industries. It has been predicted that by 1995, that number could be 16 percent, a one-third increase in just 5 years. That is because these sectors of the economy are growing at multiples greater than the other sectors of the economy.

There are clear needs for Government regulation here. Even if we only address the universal service issue we see those needs.

Regulators have a responsibility to get things right, because the difference between getting something right and getting something wrong can be that great for the economy—hundreds of billions of dollars one way or the other are at stake for our economy. So, we have got to get it right, and we do have urgency, I agree with you, Senator.

Senator DANFORTH. And clearly, today we do not have it right; is that not a fair statement?

Mr. HUNDT. Clearly today we are in the middle of change. Every day we pick up the newspaper and we see a new entrepreneurial venture that someone is starting, a new merger to accomplish a new business, to define a different market. In the midst of all these changes, it seems to me clear that Government has to try to keep abreast of these changes.

Senator DANFORTH. Right, but by "we do not have it right," we in Government do not now have it right. We are being overtaken by a revolution. We have in place a governmental scheme which is increasingly irrelevant to the real world.

Mr. HUNDT. I think Government has done a lot of things right in this area. I think that our universal telephone service is a credit to our Government and to our regulatory scheme both at the Federal level and at the State and local level. But I think that everyone needs to be involved in this change process, not just the business sector. And I think the business sector would welcome many changes by Government in the regulatory regime.

Senator DANFORTH. Well, I think it does. That is one thing that has been clear, obviously.

When we had our hearing, whenever it was, a couple of weeks ago, it was a well-attended hearing, but I think one thing that has become obvious is that there is a growing sense, first that something is going to happen, and second, that something should happen.

It was remarkable in the last hearing when we had the CEO of AT&T and Mr. Weiss of one of the telephone companies, the regional companies. I even found there was a basic agreement; namely that if it is possible to have a competitive local telephone service, then the reasons for keeping the local telephone companies out of long distance disappear.

One of the things that came out of that meeting, I hope is going to come out of that meeting, is at least focusing on the issue of what constitutes a truly competitive local telephone service. Do you believe that it is possible to address that issue effectively? I mean, could we today define what "local competition" means? What does it mean to have a local telephone system that is not a bottleneck, that is not a monopoly, that is truly open?

Mr. HUNDT. I think, Senator, that the market definition issue is at the core of making communications policy. It is never going to be possible for Government to define a market and assume that it will be static and that business people will not, through their creativity and their energy, create new markets, or have existing markets change in their dimension. It is never going to be possible to have a static condition, but with dynamic markets I think that dynamic Government can keep abreast.

Senator DANFORTH. Well, it is an issue worth working on; is it not? I mean, is that not at least one of the central questions in telecommunications—what does constitute competition locally?

Mr. HUNDT. That is a central question, and an issue that I am very interested in working on personally.

Senator DANFORTH. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hundt, thank heavens for your legal background. [Laughter.]

I love those answers. [Laughter.]

Specifically, since it was noted that the chairman of the subcommittee was affording leadership, I have a few comments to make. I will never forget, for 10 years we tried deregulating the telephone monopoly, and we tried and tried and tried, and then later I saw Judge Greene who did it by court order. And he said, "we used in large measure your minority reports that you were

putting out, because you folks had gone into the background." Congress had tried and tried and was not able to succeed.

A point: It is very, very difficult with a powerful interest involved, to get anything passed up here, and it has got to have overwhelming support. We have got to get the Bell companies to stop investing down in New Zealand and hopefully invest in the United States. The Senate passed a bill to allow the Bell companies into manufacturing by a three-fourths majority. It has not gone anywhere, and I can give you examples after examples—the newspapers, the telephone companies, the TV networks, the cable boys now are bigger than all the rest, and as you see, the dynamism, and that is what was in your answers.

On the one hand, our distinguished colleague here says they do not want Government setting it, and then the comment is made, the revolution is overtaking the Government.

I think maybe I should, on the one hand, let the revolution ensue. Let the races begin. I watch it like you do in the morning, the headlines right today, about the different buyouts, and otherwise the practical frustration of going through all of these hearings and everything else like that and absolutely getting nowhere when a large segment can get—when they can get a large segment of votes and get nowhere. I watch these things very closely. It is not a lack of interest or concern.

But there is not any dramatic need to get the local exchange into long distance. You have got viable competition out there in the long-distance market. On the other hand, there is a very valid reason, what is being called a monopoly, for public convenience, necessity, at the local level.

We know what has happened with all this deregulation. In the airlines, the regulated ones are foreign companies, and countries are coming over and taking over the deregulated and saving them from bankruptcy. I mean, we have been through that act. We have come full circle now, and we have a wonderful Commission study on an emergency basis, and they say all we need is money.

That is the one-word report. The report should have said, they disregarded the public convenience and necessity and got out on this call of competition, competition, kind of like we invent competition up here.

As your answer, the business community is way ahead of you, and you cannot regulate and institute a static at the governmental level. The private sector is way smarter than we are, and so be it. We will watch it.

We are very much interested in it, but there are a lot of things on your plate to correct without getting into another new field and act like you have got vision, and we are going to get competition. Let us get common sense, and keep what is good, good, and keep it working before we venture off into a another new field and not do the job we are doing.

Senator Pressler.

Senator PRESSLER. Well, following up on what the Senators have said, and in view of Senator Danforth's infrastructure bill, I would like to get your vision of what you would like to see happen by the year 2000. Or maybe not what you would like to see happen, but what you think will happen.

We seem to have all these new technologies, but we are sort of paralyzed in some ways in the decisionmaking process about who is going to do what. As a result of that paralysis, we might do nothing. In some cases, as a result, people may not get some of the new technology. We will have to be willing to give a little on Senator Danforth's bill or other initiatives to be sure that we have progress in our country.

I frequently speak for smaller towns and rural areas, but we should not veto progress elsewhere. Nor should our progress be vetoed. Give me a little bit of your vision. For example, what do you see happening in TV and radio? What do you see happening with the regional telephone companies in the next 8 to 10 years, and how will you facilitate it—direct broadcasting satellite, the information superhighway, the whole picture? Can you kind of give a little preview of the next 8 or 10 years as you would like to see them develop in your field?

Mr. HUNDT. Generally, and here I think I speak more as an American than as anyone in some particular post, generally, I would like to see two things. I would like to see America be the world leader in communications technologies and information services businesses. I would like to see that sector of our economy be as big as it can possibly be, so that we add jobs, jobs with good wages and prospects for advancement. That is No. 1.

No. 2, generally I would like to see all Americans participate in this revolution that all of us agree is unstoppable and, in a sense, unpredictable, participate in it on an affordable basis.

Specifically one thing that—there are probably many things I should be humble about—and at least one thing I should explicitly state in response to your question that I should be humble about, and that is trying to predict the success of any particular technology or any particular enterprise.

I do not know any particular one that is going to be more successful than another. And I think the history of business development in this area shows that we need to have the opportunity for private sector people to take a chance, get a reward if they are successful, but if they are not successful, be overtaken by someone else who has taken a chance and has done well. We have to make sure the opportunities are there.

Senator PRESSLER. Specifically, for example, the conflict between the regional telephone companies, the cable companies, the newspapers—how do you see that? How do you see those differences resolved, as to who does what?

Mr. HUNDT. I honestly do not know how those differences will be resolved.

If I might, Senator Pressler, one thing in my preparation that I read that struck me was a story of the famous David Sarnoff, who in 1931 predicted that television had an audience only as large as the population of the globe. He was talking about something called mechanical television, which by 1933, all the enterprises that had started it had gone bankrupt.

He had the wrong technology. He had the right words. He ended up foreseeing electronic television, which did not get spread out across this country for another 15 years. If David Sarnoff does not

know exactly in 1931 what technology or what business will be successful, I do not think I can predict, either.

Senator PRESSLER. What about the direct broadcast satellite? How do you see that developing?

Mr. HUNDT. Well, the direct broadcast satellite, from everything I have read, is an opportunity which entrepreneurs are going to have to put a lot of money in to, in fact, introduce new forms of competition in a lot of different markets.

Senator PRESSLER. But let us assume they put the money into it. You will be one of those at the floodgate, or at the gateway. There are going to be disputes over programming, and so forth. How would you resolve those as a Commissioner?

Mr. HUNDT. I think the important thing here is to make sure that Government, whether it is Congress or its expert agency to which it has delegated tasks, make sure that there is, to the degree possible, the potential for entry of new competitors, and that is going to require continuous attention to what are the markets, how are they properly defined, and where competition is having a chance to come in, or where it should not, because, in fact, it would not necessarily serve some particular purpose like universal service, such as Senator Hollings mentioned earlier.

Senator PRESSLER. As an attorney, you were instrumental for securing program access rights for wireless cable services, I understand. These rights have been codified in the recent Cable Act. In my State, several rural electric cooperatives are playing an important role in delivering cable services to smaller cities, and my office has been working with the FCC to help speed the delivery of services in our largest county, Minnehaha County, which is an urban county.

What, on the FCC, do you see as your activities regarding the wireless cable services?

Mr. HUNDT. Well, of course, the Cable Act passed last year has as one of its important features a number of sections which relate to the development of effective competition on the local level. And those provisions, I think, envision that the need for regulation will disappear if and when that competition exists. So, this is a very important aspect of the Cable Act.

Senator PRESSLER. Now, in the area of broadcasting, as the broadcast industry moves from analog to digital transmission, do you support creation of new digital frequencies, as opposed to in-band, on-channel digital transmission? I have talked to some of the South Dakota broadcasters, and they would be able to move to digital transmission more quickly and more cheaply under the in-band, on-channel option. What are your views?

Mr. HUNDT. This is, as you know, Senator, a very technical issue, and also an issue that has serious market considerations. I, frankly, want to look more into this issue and learn a lot more about it and, if confirmed, would be happy to share with you more detailed thoughts in the future.

Senator PRESSLER. Now, the FCC has relaxed some of its broadcast cross-ownership rules, but many restrictions are still in place. In this era of multibillion dollar media mergers, do you think broadcast cross-ownership restrictions are still warranted?

Mr. HUNDT. Well, there are a number of issues in your question. One set of issues are the economic issues. Other issues are the diversity of opinion issues. I am also not clear that a general statement can be made in response to that, and I, last, believe that, here again, we have an example of a dynamic, changing situation, and not a static one. So, I would, again, want to discuss that in much more detail with you.

Senator PRESSLER. Do you think the FCC should have different rules for small cable systems?

Mr. HUNDT. Well, the act does contemplate a different regime for the smaller systems. And there are pending matters, which I would not want to comment on, that relate specifically to that.

Senator PRESSLER. Now, your good friend and my good friend, Al Gore, has been working on reinventing Government. How do you anticipate, in the next few years, the comparative roles and the working relationships between the FCC, the National Telecommunications Information Administration, the Office of Science and Technology Policy, and other Federal bodies with responsibility over electronic communications?

This is a vast array—there are a vast array of players here. Do you envision getting them all together under your office, for example? What do you foresee in reinventing Government? How is it going to affect these various relationships?

Mr. HUNDT. Well, the Commission, of course, is a creature of Congress, created by Congress, and it has the mission that Congress gives it. And I certainly do not think the Commission, unless Congress asked it to do so, would be the focus or central clearing-house for the various ideas that you are talking about.

But I do think that the reinventing Government mission and the precepts in that are precepts that I have heard from many members of this committee and are very important. And I mean the notions that we should have a more efficient Government, we should empower workers, we should, as they put it, steer and not row. And I would imagine that this committee would like the FCC to attempt to apply those precepts to its own house.

Senator PRESSLER. Yes. I mean, it is true the FCC is a creature of Congress. Some of the reorganizing Government will require legislation. But we do have those various bodies. Do we have too many players in communications policy?

Mr. HUNDT. I do not feel that way, Senator.

Senator PRESSLER. You think that it is about right the way it is.

Mr. HUNDT. Yes, sir.

The CHAIRMAN. Very good.

Senator PRESSLER. I have some more questions for the record. I am getting a hint here from the chairman. He is squirming in his seat.

The CHAIRMAN. No, that is all right.

Senator PRESSLER. I am taking too much time. So, I will put the rest of my questions in the record.

The CHAIRMAN. I think we are a little behind on getting an FCC chairman, I think you all would agree with that.

Senator PRESSLER. I will submit my questions for the record. Thank you.

The CHAIRMAN. Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much. Senator Pressler, I have known the chairman for less time than you have and certainly worked with him a briefer time, but my observation is he never hints at everything. [Laughter.]

He normally flat out describes what is on his mind at all times.

Mr. Hundt, this is, I think, as Senator Danforth described, the front end of a virtual explosion in technology, especially information and communications technology. And this is not a time for a sleepy bureaucracy. There were times, perhaps, in the Government's history when it would be fine to have a bureaucracy that was relaxed and laid back and took life easy.

My guess is this is going to be a challenging time for the Federal Communications Commission. It is going to be a little like riding a wild bronco and is going to require, I think, an activist in that job. And I have looked at your record. I think you are certainly well qualified for the job, and I am happy today to support your nomination.

I would like to ask you just two questions today. One is in this rush for deregulation, some have forgotten that there are certain needs, certain pillars in our lives that represent universal needs. Access to communications, access to transportation, for example, are not conveniences.

It is easier to have a transportation network or system, easier and probably less expensive to have a communications system or network in very heavily populated areas, but it is just as important to have a telephone in Grenora, ND, as it is New York City, and the presence of each makes the other more valuable.

So, there needs to be universal access in communications, and I would hope that you are sensitive to that. I do not know whether you have any rural component in your background, whether you have ever lived in rural America or understand much about it, but this rush to deregulate and decide that let's let the market system decide and be the allocator, does not work when you are talking about things that are essential to life. And can you just respond for a moment about the notion of the universal need for communications and how your thoughts might affect rural America?

Mr. HUNDT. I 100 percent agree with you, Senator. I think that in many ways the future of rural America is dependent on being part of a broadband system. And I think that rural America is a place where the American dream has come true for many people for many generations.

I am mindful, if I can mention something from my personal life, of the fact that my father, growing up in Wisconsin, spent his summers in a small town in Iowa, a town that does not exist anymore. It just blew away, literally, in the 1930's. Now, that should not have to be the case, and the communications revolution can be one way that that is not the case.

Senator DORGAN. The potential exists for the communications revolution to dramatically change the face of rural America. I mean, my hometown is 300 people. I grew up understanding it was a disadvantage because we were so far from markets, in North Dakota in a small town. My hometown is as close to Manhattan as the Hudson River is with fiber optics and telecommunications. We are processing information and communicating data from small

towns around the country these days because of this revolution. I just want to make sure when this revolution moves forward, that we have access and opportunity to be what we can in rural America as a result of it.

But let me go on to a point that the chairman made about television violence. I have introduced legislation, that I have worked on since the start of the year, that would call for the Federal Communications Commission to compile a television violence report card once a quarter and publish it.

You pick up the newspaper every month, you will find out there is an AP story that says here were the top 20 shows last month, here is who won and here is who lost. I am not asking the Federal Communications Commission to make a qualitative judgment about whether they thought the show was any good or not, but I would like people to have information. Which were the most violent programs and who sponsored them, and then let people do what they want with that information: supervise their children, send a message to those who sponsored the shows.

Some say that borders on censorship. I do not support censorship and would not support things in this committee that move in the direction of censorship, but I really believe in giving people information. Grocery store counters are crowded these days, the aisles of grocery stores, because people are looking at food to see how much sodium and fat is in food. It is really interesting. You give people information and they use it to alter their lifestyle.

I raise this bill only because we are going to have a hearing, as the chairman indicated, I believe October 20, on this legislation and others. I think the Attorney General may testify. But we are going to be discussing these issues. I want to advance the notion of having the FCC propose a survey once a quarter of 1 week of television, one of the quarters of the year should be a sweeps week, and simply provide people information about what they found.

And I would like to know your evaluation of that. Do you feel that is a terrible idea, not a bad idea, you would not oppose it, you support it? How do you generally feel about it?

Mr. HUNDT. You were kind enough, Senator, to share some of your views on this with me before the hearing, and I was very impressed with your concern and the importance of the issue that you are addressing. I also understand that the bill does not, in any way, intend to modify the anticensorship provisions of the Communications Act, which I know that you feel is very very important. So, I think those hearings are a very good thing, and you should develop that expert opinion and proceed on. I think that is wonderful.

Senator DORGAN. So, in other words, you are not going to round up a parade and lead the parade down Constitution Avenue in opposition to this approach. Some in the FCC would say, "Lord, the last thing we want is to give the FCC another duty or responsibility." I would not view this as a major, major effort. I think if you survey 1 week in a quarter and produce an objective evaluation of which were the most violent programs, based on rules that you establish and how you count that, I would not view it as a major obligation of the Federal Communications Commission in terms of man-hours.

But, Mr. Chairman, thank you very much. I think Mr. Hundt is a well-qualified nominee, and I think he has got some really interesting times ahead of him.

The CHAIRMAN. Very good. Let me recognize Senator Dorgan's leadership on this concern over violence in TV programming. Specifically when asked in Parade magazine, the First Lady responded—would you support congressional committee hearings leading to some sort of control over what children have access to, and Mrs. Clinton said "Absolutely."

We intentionally are not inviting her. I am confident we could get her, but she has got a full plate relative to health care and I think she is doing an outstanding job in that regard. But we will have other witnesses, all in the context of the different hearings that have been had, throughout this year.

But this committee and your Commission are charged with the prime responsibility. And I have just withheld until now, trying to make headway rather than headlines. We want to try to really get something done. There is a signal effect to get the public's attention and get the networks and the media's attention, and the movie industry's production facilities' attention out there on the west coast, and otherwise.

But I would like to get something done, and if you have any suggestions along this line. I know you have got deep experience on the one hand, you have got children on the other, and a concern, as your answers have indicated. I want to find out what, legally, I can do, and if you have any suggestions, you let me know.

Mr. HUNDT. Yes, sir.

The CHAIRMAN. We appreciate it.

Senator Mathews.

Senator MATHEWS. Thank you, Mr. Chairman. I apologize to the committee for being late. I have been in the Energy Committee and am late getting here.

I had the opportunity of visiting with Mr. Hundt over the phone; we did not have an opportunity in the office. I find his qualifications extremely well for this position. I do want—since our discussion over the phone, Mr. Hundt, I have had a couple of people bring to my attention something that seems to be a problem at the FCC, and I wanted to take the opportunity to discuss it with you.

I believe that—it has been said to me, it has been called to my attention that political advertising rates—and I do not know whether we have gotten in this at all this morning. That the Communications Act sets political advertising rates at what the most-favorable-unit costs are, or lowest unit costs are, or whatever.

That there are any number of examples pending presently before the FCC, and these are not matters that you are charged with, but pending there now where candidates have been overcharged by substantial amounts. And I guess the thing I wanted to ask is, one, is it your understanding that candidates are to accorded, you know, the most favorable rate. And, two, as Chairman, will this be your position, to see that that portion of the Communications Act is carried out?

Let me make one other statement, and then I will just let you respond. This committee—or not this particular committee, but committees of this Congress have been studying ways, ever since

I arrived here in January, to try to bring campaign spending under control. You know, we are spending too much money on campaigns.

But if we are going to place limitations on the amount that we spend—and I support that fully. If we are going to do that, we ought to at least get full value for those dollars we do spend. And the candidates should not be overcharged any more than any other consumer should not be overcharged, and I would like for you to respond as to what your position might be in these areas.

Mr. HUNDT. As you mentioned, I would not want to comment on any pending matters. But I am well aware of the issue that you are mentioning, Senator, and I think that it is quite clear that an aggressive implementation of the purposes of the legislation here is very important to political discourse in this country.

I have heard from a number of sources that even those broadcasting outlets that very much want to meet the requirements here, feel burdened by the complexity and difficulty of the regulations. I would like to look into that specifically and see if there is merit in that point, and if there is, whether a more simplified regime might be able to get to the goals that you have addressed.

Senator MATHEWS. It is my understanding there is presenting pending before the Commission a large number of complaints, and large number of requests for refunds from candidates, and I am not one of those so I am not looking for self-help. But there are a large number of requests for refunds. Some have been there for as long as 2 years that have not even been looked into.

Will you agree to expeditiously look at what is there and see what action needs to be taken, whether they need to be dismissed or carried out?

Mr. HUNDT. Absolutely.

Senator MATHEWS. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. If it is the will of the committee, we will leave the record open for additional questions for the nominee.

Senator Inouye, I think you had a suggestion?

Senator INOUE. Yes, Mr. Chairman. In looking over the calendar of the committee, I note that the next executive session will be 2 or 3 weeks from now. And that being the case, I would like to suggest that the chairman be authorized to poll the committee to report out this nomination, because I have yet to hear any voice of discontent or opposition to this nomination. And so the sooner we get things done, as you have indicated, we can finally have the FCC operating the way it should.

The CHAIRMAN. That is a good suggestion, but as our ranking member has just recognized any single member, if we have not had the quorum in the formal meeting, could raise a point. But let us see what we can do.

Senator DANFORTH. Mr. Chairman, I do not know of any objection to Mr. Hundt's nomination. And, in fact, I think there is widespread admiration for the nominee. It is fine with me to try that.

But the problem is that anybody could object to it, as I understand it. And so if it does not work, maybe in the alternative we could have just a meeting off the floor sometime and report it out.

But I certainly agree with you. I think it is in the best interest of everybody if we move ahead with this nomination and get Mr. Hundt confirmed as quickly as we can.

The CHAIRMAN. Very, very good. Mr. Hundt, we thank you for your appearance. And it is quite obvious that we are going to move toward confirmation as quickly as we can.

The committee will be in recess subject to the call of the Chair.
[Whereupon, at 10:50 a.m., the hearing was adjourned.]

APPENDIX

QUESTIONS ASKED BY SENATOR HOLLINGS AND ANSWERS THERETO BY MR. HUNDT

Question. There is concern that the Federal Communications Commission (FCC) over the years has ignored the concept of public interest, convenience and necessity in communications regulation. If confirmed, to what extent would you apply this concept in the formulation of telecommunications policy? Particularly with regard to violence and its effect on children, what steps should the FCC take to ensure that all the media, including broadcasters and cable, protect and serve the public interest?

Answer. I believe that broadcasters are public trustees. I also believe that spectrum scarcity underlies the requirement that they be responsive to the needs and interests of the communities they serve. With due deference to the First Amendment and the anti-censorship provisions of the Communications Act, I believe all broadcasters should focus on how they are serving local communities, including particularly families and children.

With respect to violent programming, as I understand it, the scientific community has produced a persuasive body of studies tending to confirm that certain types of dramatized violence in video programming has some effect on human behavior and attitudes, and particularly on the behavior and attitudes of children. I believe almost all Americans would prefer to see less violence in television programming, and I certainly would endorse that preference. Regulation on this topic is extremely challenging for a variety of reasons, including but not limited to First Amendment considerations. I am very mindful of these complexities. However, there are reasons to believe that technological innovation and an increasing consensus in society about excessive violence on television may lead to some breakthroughs in this area. I would hope that the Commission could be at the cutting edge in identifying solutions to this problem.

Question. As a general premise, the FCC has been on record as favoring competitive markets rather than regulation to achieve its goals. How do you view this position? Is it your view that government should get involved only when the marketplace fails?

Answer. I believe we should attempt to understand how markets for goods and services in the telecommunications sector work or, in some cases, do not work efficiently. I believe regulatory or deregulatory steps should be taken as necessary to have markets that work efficiently, maximizing the benefits to consumers and the American economy.

There appears to be little question that, since the breakup of the former Bell system, many deregulatory actions taken by the FCC have helped expand telecommunications markets and encourage product innovation, with many attendant consumer benefits. The Commission's competitive carrier proceeding, introduction of competition in the interexchange market, deregulation of customer premises equipment, and transponder sales policies are a few examples of Commission deregulatory actions which appear to have benefited the American consumer. However, generally, I believe deregulation is not in itself an ultimate goal, but rather it is a means to an end. Promoting competition and eliminating excessive regulation are among the tools the FCC should use as appropriate to pursue its mission, while continuing to monitor carefully the impact on consumers and American business of developments in the telecommunications markets.

Question. How do you see the current relationship between the FCC and the state regulatory bodies? As telecommunications services become more nationwide, do you see a change in the relationship between state and federal regulation?

Answer. I believe that the current federal-state telecommunications policymaking apparatus deserves significant credit for major accomplishments. The federal-state relationships are complex and constantly are being reviewed by the participants. This review should be reinvigorated, and regulatory policies that reflect what Jus-

tice Frankfurter called "Our Federalism" should be reassessed in light of recent developments in the telecommunications markets.

Question. In light of the convergence of technologies in cable and other telecommunications industries, what changes, if any, might be warranted in the regulation of service providers utilizing such technologies?

Answer. Your question implicates a number of major policy issues now facing the FCC: video dialtone, the Bell Atlantic telco-cable cross-ownership case, competitive access, universal service, to name some of the most obvious. I should not comment on specific matters pending before the Commission. Generally, however, I believe that we cannot predict the details of how the business sector will pursue the vast commercial opportunities represented by the innovative, multimedia environment. Therefore, regulators must determine the best way to ensure maximum economic growth and maximum social benefits through the regulatory environment they create. I would approach the issue you raise by focusing on market definition and determining the existence or absence of effective competition in particular markets. Then, I would try to promulgate a regulatory environment that stimulates economic growth and guaranteed universal service.

Question. Congress passed the Cable Act of 1992 to address the problem of rising cable rates and to ensure that cable rates are reasonable. As a result of the implementation by the FCC of the 1992 act, it appears that certain rates will increase. If confirmed, how are you going to address this issue?

Answer. Initially, I would learn the facts. It is important to answer such questions as: How have program offerings changed? What are the programming rates on a per channel basis, tier basis, and aggregate basis for each franchisee? How have any changes affected the number of subscribers? What has happened with respect to the pricing and subscription of equipment? I know the FCC intends to look into these and other relevant matters, and has initiated a survey of the majority of cable systems nationwide. I would like to participate wholeheartedly in the FCC's examination of these factual issues. I also note that Representative Markey is chairing a hearing scheduled for September 28 which is intended to examine the preliminary results of rate regulation under the 1992 Cable Act.

After gaining an in-depth knowledge of the facts, it would be my intent to determine whether Congressional intent has been realized by the FCC's regulations implementing the 1992 Cable Act. If those regulations have had unintended consequences, they should be adjusted. In any event, I would be in close communication with Congress to make sure that you know how the Commission is implementing the statute and what the projected results of that implementation might be.

QUESTIONS ASKED BY SENATOR INOUE AND ANSWERS THERETO BY MR. HUNDT

Question. I am concerned that the prior FCC often ignored its obligation to determine whether applications were in the public interest relating to concentration of ownership separate and apart from whether the application simply complies with specific rules on ownership. Do you think that the public interest review should be applied more broadly than a specific FCC rule?

Answer. I believe that broadcasters are public trustees and they must serve the communities to which they are licensed. In reviewing applications which would result, if approved, in greater concentration of media ownership, the Commission should consider whether grant of an application would serve the public interest, including the important interest in preserving diversity of media voices.

Question. Universal service is, or should be, one of the paramount goals of the government and specifically the FCC. I think that the FCC, acting pursuant to Congressional intent, has promulgated over the years a regulatory regime that has promoted universal telephone service. These policies also have been implemented by state regulatory authorities. However, there is no doubt that the methods by which universal service has been implemented have changed over time as markets and technologies have changed, and it is certain that these methods will continue to change. Furthermore, the convergence of different industry sectors, driven by technological innovation, strongly suggests that it is appropriate at this time to reconsider the general definition of universal service so the benefits of the nationwide network, or national information infrastructure (NII), can be available to all Americans on an affordable, accessible and fair basis.

I believe that, as competition is introduced to more and more parts of "the network," and as multiple networks emerge, the burden of funding universal service must be shared in an equitable manner by service providers, and subsidies must be targeted to produce the greatest possible benefit for consumers.

Question. The Danforth-Inouye bill allows telephone companies to provide cable service within their own region with a prohibition against buying existing cable systems or coventuring in their service areas. Do you believe these types of safeguards are necessary to promote competition and prevent the formation of one monopoly provider of both cable and telephone service?

Answer. This is a complex area and one which merits careful study. If the goal is competition in the provision of cable service, as the 1992 Cable Act suggest, regulators should seriously consider whether allowing a telephone company to buy a local cable system serves that goal.

Question. What is your view of the linkage, if any, between levels of competitive entry in telecommunications markets and the need for changes in regulatory policy/structure?

Answer. I think that it is appropriate to analyze regulation of telecommunications service providers on a continuing basis. Part of that analysis should be the determination of the levels of competition in the different markets subject to the FCC's jurisdiction. It is also appropriate to consider how regulatory processes can be streamlined so as to reduce the burden on the economy.

As markets become more competitive, the FCC must continue to assess whether and how its regulatory role should be modified. Traditionally, regulation of local telephone service was developed in the context of monopoly markets. Similarly, much of the regulation applicable to cable television service providers was developed on the assumption that cable television generally did not face effective competition. Increased competition in both the telephone and cable markets should cause the Commission to reexamine the appropriate level of regulation necessary to achieve public policy goals and to serve the public interest, just as increased competition in the customer premises equipment market led to deregulation of CPE.

Question. Do you support letting all telecommunications companies bring new services to the market and engage in competition for the benefit of customers? What kinds of steps might the FCC take to promote infrastructure development for every citizen?

Answer. Generally speaking, competition can serve the public interest by maximizing output, lowering prices and increasing the number and variety of services available to the public. Therefore, if confirmed, one of my primary goals would be to analyze vigorously the levels of competition in all the various markets and submarkets that are subject to the FCC's jurisdiction, and to consider in which markets it would be appropriate to allow competition. Such an analysis would also have to include consideration of the impact that any such regulatory move would have on universal service.

I think that the FCC can and should play a role in promoting infrastructure development by, among other things, implementing the Administration's National Information Infrastructure (NII) initiative in consultation with Congress. I would expect that Congress would engage actively in this effort, and that its decisions may require action from the FCC. While I should not comment on specific matters pending before the FCC, there are various matters already under consideration that relate directly and indirectly to the development of the information highway. In my view, it is imperative that the United States make progress in the construction of broadband networks. Without such progress we will imperil the international competitiveness of our economy and will lose significant export possibilities. If confirmed, I will turn my attention in earnest to the development of the infrastructure that will bring the benefits of the "information age" to all citizens.

Question. How do you see the current role of the FCC in the telecommunications industry? Does this role differ from the role of the FCC as originally established?

Answer. The FCC's mandate is and always has been to implement the will of Congress, as expressed in legislation, in areas within the agency's jurisdiction. Specifically, the FCC's mission is to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges. In my view, this means that the FCC should establish, through its regulatory policies, an environment which fosters the growth of information and telecommunications networks that serve the public interest. To that end, the Commission's policymaking activities should take into account incentives and disincentives for private investment in the network and the creation and offering of services.

I believe that the FCC will continue to have a variety of roles with respect to the telecommunications industry, including but not limited to standard setting, ensuring competitive markets, and guaranteeing universal service as that may come to be defined.

In general, new policies adopted by the FCC must be consistent with the agency's statutory mission. In addition, as an expert agency, the FCC should maintain and

increase its high level of expertise in telecommunications and make that expertise available in discussing communications policy with members of Congress and the Administration.

Question. In trying to encourage better programming in children's television, the Congress passed the Children's Television Act of 1990. The legislation has not resulted in the level of improved programming for children as envisioned. Within the parameters of the Communications Act, what steps can the FCC take to encourage better programming for children?

Answer. I am aware of Congress' concerns about the amount of commercial material to which children are exposed and standards for children's programming generally, as embodied in the Children's Television Act of 1990. I also understand that the FCC is currently reviewing its rules implementing that Act to clarify the obligations of broadcast licensees under the statute. Without prejudging the Commission's rulemaking proceeding, I believe that the Commission should be faithful to the mandates of the Act and responsive to the concerns expressed by Congress that improvements be made in the amount and type of programming provided for children by broadcast licensees.

Question. Telecommunications trade is becoming a vital part of the global economy. Not all foreign markets are as open as the U.S. market for telecommunications. Do you believe that the FCC has adequate authority to act in cases involving unbalanced market access? If so, to what extent should this authority be exercised?

Answer. The FCC should play an active role in the promotion of U.S. economic interests abroad through the exercise of authority that has been delegated to it by Congress. The FCC has the authority to play an important part in this area through its domestic and international regulatory policies. The FCC also can lend its expertise to its continuing discussions with the Department of State and the United States Trade Representative (USTR) concerning telecommunications trade issues.

For example, the FCC has historically been active in the international market access issues in its accounting rates and international settlements policy, separate satellite systems policy and bilateral discussions. The FCC also can and should be involved in international telecommunications trade policy in the international standard-setting area. Through participation in international conferences and bilateral discussions, the FCC ensures a U.S. voice in the standard-setting process that is so important to the success of U.S. equipment and services overseas.

If confirmed, I would be committed to continuing and strengthening the FCC's contribution in these areas in order to improve the prospects for international trade in U.S. telecommunications equipment and services. In particular, I would like to see that sufficient FCC resources are devoted to these issues, and I look forward to working on important telecommunications trade issues such as this in close cooperation with the State Department, NTIA and USTR.

Question. As you may be aware, the State of Hawaii historically has been discriminated against in the provision of telecommunications services and rates charged for such services. For many years, carriers serving Hawaii established "separate," higher rate structures for their Hawaiian services. In 1972, the Commission recognized that there was no basis for such discrimination and adopted a policy known as "Rate Integration" for all carriers and classes of service. Rate integration requires carriers to use the same services offered to Hawaii as those for the same services offered on the mainland. While rate levels may differ, the rate structures should not discriminate between the 48 contiguous states and non-contiguous points such as Hawaii and Alaska.

In 1975, the Senate passed a resolution which I sponsored, specifically endorsing the rate integration policy, and in 1980, Congress amended the Communications Act to ensure that Hawaii would be treated like other states with respect to regulatory rules governing telecommunications, rates, services, and conditions. Hawaii has benefited economically and socially and seen great improvements in telecommunications service. Occasionally, however, some suggest that rate integration may apply only to a limited class of service.

Under your stewardship, will the Commission continue the policy of rate integration? Specifically, do you agree that rate integration applies to all carriers and classes of service?

Answer. While I need to gain more familiarity with the details of the rate integration policy for Hawaii, I do agree that rate integration is an important concept if our national telecommunications networks are to be truly accessible to all Americans. If confirmed, I will be committed to ensuring that residents of Hawaii, like residents of other geographically remote parts of our country, are not penalized or unfairly charged for their use of the telecommunications networks because of their location.

Question. Prior to divestiture, essential communications services could be obtained only by renting equipment from the telephone company. The FCC and courts eventually required that the provision of customer premises equipment be decoupled from the service offering and provided on a freely competitive basis. Since then we have witnessed an explosion of new, innovative and sophisticated equipment which is widely available in retail stores across the country. Consumers today have the broadest array of equipment to choose from.

In light of the re-emergence of bundled offering of telecommunications services and equipment which have the practical effect of limiting consumer choice, should the FCC continue to encourage and promote the further development of our telecommunications infrastructure through unbundling of service and equipment offerings by telecommunications services providers?

Answer. "Bundling" of telecommunications equipment and services can be beneficial or detrimental for consumers, depending on market conditions. For example, in the cellular telephone area, the offering of equipment and services on a bundled as well as an unbundled basis may have enabled many consumers to purchase low-priced mobile phones and to become part of the cellular network for the first time. Of course, regulatory safeguards may be appropriate in some cases to prevent the abuse of permissive bundling. In general, the FCC should have a solid understanding of the degree of competition in both equipment and services in a market before it makes a decision to allow or prohibit the bundling of services and equipment in that market.

Question. The FCC is considering whether cable operators may include the purchase price of a cable system as part of their rate base for rate regulation purposes. If the purchase price is included in the rate base, cable subscribers' rates may go up solely because the system is sold, not because of improved service or quality. Should cable subscribers carry the financial risks of the cable operators' purchase investment?

Answer. This is a very complex issue which is currently being considered by the Commission. In the transition from an unregulated environment to a regulated one, regulators may find that some investments by cable operators were made in good faith, while it may be imprudent to permit the inclusion of other expenses in the rate base. I do not want to prejudge the Commission's action in this area. In general, however, the risks and rewards both go to the investors and entrepreneurs in our economic system.

Question. The INMARSAT organization is now considering the launch and operation of a new system of satellites designed to serve the land mobile market. The FCC is charged with enforcing the 1978 Maritime Satellite Act and proving appropriate instructions to COMSAT, the U.S. representative to INMARSAT. As Chairman, will the FCC ensure that COMSAT is properly instructed concerning the limitations of its ability to be involved in only those matters as authorized under the 1978 Act?

Answer. The FCC, the Department of State, and NTIA are jointly responsible for instructing Comsat with respect to its participation in Inmarsat. If I am confirmed, I will endeavor to ensure that the proper level of oversight is brought to bear on Comsat through the instructional process, so that your concerns about the proper scope of Comsat's activities are satisfied.

QUESTIONS ASKED BY SENATOR PRESSLER AND ANSWERS THERETO BY MR. HUNDT

LOCAL COMPETITION

Question. In your opinion, what would constitute effective competition in the local exchange market? Would you look at the market as a whole or specific services within the market?

Answer. The determination of how markets for goods and services in the telecommunications sector work or, in some cases, do not work efficiently is an essential task for the FCC. I believe regulatory or deregulatory steps should be taken as necessary to have markets that work efficiently, maximizing the benefits to consumers and the American economy. Various sources assert different degrees of competition in the various markets and submarkets within the telecommunications and information industries. While the Commission has made progress in studying these issues, I believe that additional and continuing examination is necessary to determine the correct market definitions as well as the degree of competition that exists in each such market. If confirmed, I would energetically undertake the important task of defining the relevant markets and submarkets and carefully analyzing the level of competition in each.

Question. What are the competitive dangers of introducing competition too quickly—or too slowly?

Answer. The dangers of introducing competition too quickly are that competition may not occur or may occur only in the most lucrative segments of a market, and that, as a result, universal service may suffer. On the other hand, failing to introduce competition when the market appears ready may result in lost opportunities for competitive service providers.

Question. In your opinion and experience, are regulatory safeguards effective in preventing competitive abuses such as discrimination and cross-subsidization?

Answer. If properly structured and tailored to market realities, regulatory safeguards and incentives, whether structural or non-structural, can be effective tools for preventing abuses of market power such as discrimination and cross-subsidization.

Question. Do you think structural safeguards, such as separate subsidiary requirements, cross ownership prohibitions, or divestiture are more effective than regulation in preventing competitive abuses? Or are these measures draconian in excluding or stifling potential competitors?

Answer. Structural safeguards surely have their place among the regulatory tools that can be used effectively to curb abuses of market power. It must be recognized that such measures also may have the effect of suppressing competition in a particular market. Therefore, regulations should be carefully tailored with both of these considerations in mind. Different regulations may be appropriate for different services, depending on the degrees of competition and the dangers of cross-subsidization within each service.

Question. In retrospect, do you believe the AT&T divestiture was a success? Did you think it would be when it was announced in 1982?

Answer. Overall, the divestiture has had many positive effects for the economy and consumers, as I and many others anticipated. It also has had unforeseen consequences. Finally, it has necessitated continuing governmental oversight and action.

UNIVERSAL SERVICE

Question. What role do you see for rural telephone companies and their subscribers in a climate of local competition?

Answer. Rural telephone companies have historically provided and are providing an invaluable contribution to universal service, particularly in those areas where the large telephone companies may not have had the responsibility of providing basic service. FCC regulatory policies must recognize the continuing importance of these companies to the national telecommunications infrastructure. I also would hope that as universal service is redefined, rural telephone companies would take the lead, as small businesses have so often done, in innovation and job creation. If I am confirmed, I hope to ensure that subscribers of rural telephone service remain active participants in the national telecommunications infrastructure as consumers of the information revolution.

Question. What steps do you plan to take to ensure that universal service is maintained in a repetitive environment? In particular, what steps should the FCC take to assure continuing adequate service to rural America?

Answer. I think that the FCC, acting pursuant to Congressional intent, has promulgated over the years a regulatory regime that has promoted universal telephone service. However, there is no doubt that the methods by which universal service has been implemented have changed over time as markets and technologies have changed, and it is certain that these methods will continue to change. Furthermore, the convergence of different industry sectors, driven by technological innovation, suggests to me that it is appropriate at this time to reconsider the general definition and methodology of universal service. Any new definition needs to be developed as part of a process involving Congress, the FCC, the Administration, and all affected parties. If confirmed, I would hope all regulatory policies would reflect the goal of ensuring that the benefits of the nationwide network, or national information infrastructure, can be available to all Americans on an affordable, accessible and fair basis.

Question. What is the best way to ensure that we do not become a nation of information haves and have-nots?

Answer. Universal service is, or should be, one of the paramount goals of the government and specifically the FCC. I believe that, as competition is introduced to more and more parts of "the network," and as multiple networks emerge, the burden of funding universal service must be shared in an equitable manner by all service

providers, and care must be taken to target subsidies so that individuals and homes do not drop off the network.

Question. How would you ensure rural telephone companies the opportunity to participate in providing these new services?

Answer. As mentioned previously, rural telephone companies have historically provided and are providing an invaluable contribution to universal service. This is particularly true in those areas where the large telephone companies may not have had the responsibility of providing basic service. FCC regulatory policies must recognize the continuing importance of these companies to the national telecommunications infrastructure.

MEDIA CONCENTRATION

Question. What are your views on mergers in the mass media/communications industry?

Answer. I understand that many parties favor repeal of various of the rules restricting concentration of media ownership because of changing market conditions. I do not know the details of the record and I do not wish to prejudge any issues as to matters currently before the Commission. However, in determining whether such rules are sound, I would reexamine the reasons for the adoption of the rules and the ways in which current market conditions may differ from market conditions that existed when the rules were adopted. In general, some mergers can have a beneficial effect for consumers by enabling industry participants to take advantages of efficiencies of scale and obtain synergistic benefits. In evaluating individual mergers, I would have to consider the affected markets and the potential benefits and possible risks inherent in the particular transaction.

Question. What factors should the Commission consider before it approves transfers of FCC licenses?

Answer. Under Section 310 of the Communications Act, the Commission may not approve an assignment of license or transfer of control of a licensee before finding that the public interest, convenience and necessity will be served thereby. The Commission considers such factors as the technical, legal, financial and character qualifications of the applicants, as well as other public interest considerations. The Commission should continue to consider all of these factors under the broad discretion of the Section 310 public interest standard. In addition, the Commission can and should consider the possible anticompetitive effects of any proposed transaction that would result in increased concentration of ownership of licensed facilities.

Question. Can I have your assurance that the Commission will consider carefully the potential anticompetitive implications of transactions that might further concentrate market power in the cable industry?

Answer. Yes.

BROADCASTING

Question. What future role do you see for over-the-air radio and television stations in this environment?

Answer. I am concerned about reports that many radio and television stations are having trouble competing in the market for media services. "Free" over-the-air broadcast services have played a significant part in the history of communications in this country. If confirmed, I will study the state of these industries and, if they are in trouble, try to determine the causes of their decline.

Question. Although the FCC has relaxed some of its broadcast crossownership rules, many restrictions are still in place. In this era of multibillion dollar media mergers, do you think broadcast cross-ownership restrictions are still warranted?

Answer. I understand that many broadcasters favor repeal of the cross-ownership rules because of changing market conditions. I do not know the record and I do not wish to prejudge any issues that currently may be before the Commission. However, in determining whether the rules still make sound policy, I would reexamine both the reasons for the adoption of the rules and the ways in which the current market may differ from market conditions that existed when the rules were adopted.

Question. As the broadcast industry moves from analog to digital transmission, do you support creation of new digital frequencies as opposed to in-band, on-channel digital transmission? I understand from talking to South Dakota broadcasters that they would be able to move to digital transmission more quickly and cheaply under the in-band, on-channel option. What are your views?

Answer. This question raises a difficult issue that has arisen before in the authorization of a new service: whether to allow new entrants to compete in a service, or give the licensees in an existing service the benefits of a new allocation. Such situations also raise the problem of displacing existing users of a frequency band that

is reallocated. In the digital audio and video areas, the FCC will have to balance these competing interests carefully. I understand that developmental work still is underway in digital audio broadcasting and I would look forward to reviewing the results of that work, if confirmed.

CABLE TELEVISION

Question. Would you expect the cable/telco competition to develop and flourish in small cities? Smaller towns? Rural areas?

Answer. As Congress acknowledged in the 1992 Cable Act, competition in the delivery of video programming services may emerge through competitive cable systems and alternative video delivery systems such as direct broadcast satellites and multipoint distribution systems (wireless cable). Some of these technologies appear to be better suited to serving smaller communities and rural areas than others, but I would expect that, with appropriate regulation of the kind contemplated in the Cable Act, competitive technologies serving all U.S. communities can emerge. The task for regulators will be to ensure that the special demands of serving smaller communities and rural areas are taken into account when regulations are developed.

Question. Would different entry requirements or buy-out provisions be appropriate for rural areas as opposed to major metropolitan markets?

Answer. The question requires further study and some greater exploration of the hypotheses at issue. However, it is likely that market conditions in rural areas will differ from market conditions in metropolitan areas and, therefore, that regulations will reflect such differences.

Question. Can I have your assurances that you will recuse yourself from proceeding before the Commission involving Hughes' DirecTV and any other DBS operator?

Answer. The General Counsel of the FCC and the Office of Government Ethics have concluded that recusal from DBS rulemaking proceedings is not required. For one year from the time I last served as Hughes' attorney, I will, if confirmed, recuse myself from adjudicatory-type matters in which Hughes is a party. It would be inappropriate to disregard the advice of these offices.

GOVERNMENT

Question. What do you anticipate will be the comparative roles and working relationships among the FCC, the National Telecommunications and Information Administration, the Office of Science and Technology Policy and other federal bodies with responsibility over electronic communications?

Answer. Each of the agencies listed has its own statutory responsibilities. The FCC should work in close cooperation with NTIA, OST and other federal agencies in areas where they share a common goal.

Question. The Clinton Administration has offered its blueprint for a "reinvented government." What changes do you expect to introduce at the FCC under such an overall federal plan?

Answer. It would be premature for me to try to give a comprehensive assessment of the FCC's operations. If confirmed, I hope to learn very quickly, from inside of the agency, about the FCC's internal operations and any impediments to the effective delivery of services the agency is supposed to be supplying to its customers—who include not only the regulated industries but, more importantly, the American people. I expect that, if I am confirmed, the precepts on "reinventing government" set out in the Administration's National Performance Review would provide an excellent framework to begin to analyze the ways in which the FCC can improve its operations. I also want to listen to the individuals at the agency who know the Commission's areas of expertise and excellence the best, and know its weaknesses as well. One specific example I can cite, because it has been raised with me by so many people at the agency in informal conversations I have had over the past few weeks, is the feeling that the FCC itself should be an emblem of the communications technology and services it is charged with regulating. In this connection many improvements may be possible through both better use of technology and better management of human resources. I hope I will have the opportunity to make a difference in this important area.

QUESTION ASKED BY SENATOR GORTON AND ANSWER THERETO BY MR. HUNDT

Question. While there are many important issues before the FCC that will affect each and every citizen, I wanted to bring your attention to a matter that doesn't receive national attention but is very important to many of my constituents. The FCC has been handing out enormous fines to boaters and fishermen in my state for

very minor, and usually unintentional, misuse of a marine radio. These fines often range from \$2,000 to \$10,000 for simply using the wrong radio channel. I have spent considerable time looking into this matter. In the last year and one-half, Washington state residents have received more fines than all other states combined. These violations are often because the operator is unlicensed, doesn't properly identify themselves by call-signs, or uses the wrong, non-emergency channel. While each of these matters may be a violation, the penalty is far out of proportion to the supposed crime. It is my belief that the FCC has not done an adequate job informing citizens of the rules. It would seem to me that a simple warning for a first time violation would serve the purpose of educating the public on the proper use of marine radios. Do you agree with my views on this subject and will you work with me to change this policy?

Answer. It would be inappropriate for me to comment on matters currently before the Commission. However, I agree that sometimes government can be too inflexible in the enforcement of its rules. I do not know the specific record in this area and I would like to learn the detailed facts. For example, I understand that the FCC recently reduced to \$100 for individuals and \$400 for businesses the maximum amount of the fines for first-time offenses for unlicensed use of a marine radio and for operation on an unauthorized marine frequency. In general, if confirmed, I hope to ensure that all licensees are treated fairly in matters before the Commission, including being given adequate notice of applicable rules and being afforded due consideration of mitigating circumstances in forfeiture proceedings.

QUESTIONS ASKED BY SENATOR HUTCHISON AND ANSWERS THERETO BY MR. HUNDT

Question. Do you believe that the FCC can reinstitute the Fairness Doctrine in the absence of federal legislation? If the Fairness Doctrine is codified, how will it be enforced and what regulatory burdens will it impose on broadcasters?

Answer. If Congress mandates the Fairness Doctrine, of course the FCC will effectuate the intent of Congress. If no such doctrine is enacted by Congress, my own view is that the Commission should attend to not only the historical implementation of the Fairness Doctrine but also the principle behind it to determine whether the public is now able to obtain a reasonable diversity of views from broadcast stations on important matters of public interest. I would fully expect that this attention would concern inter alia, the availability of broadcast outlets, as well as consideration of whether the doctrine has a "chilling" effect on free speech.

Question. It is my understanding that there is general dissatisfaction among cable companies of all sizes with the rate regulation promulgated pursuant to the Cable Television Consumer Protection and Competition Act of 1992. In addition, it appears that large numbers of cable subscribers now face higher, rather than lower, cable rates. What is your view on re-visiting rate regulations?

Answer. I would like to learn more specific, detailed facts. It is important to answer such questions as: How have program offerings changed? What are the programming rates on a per channel basis, tier basis, and aggregate basis for each franchisee? How have any changes affected the number of subscribers? What has happened with respect to the pricing and subscription of equipment? How have the rate regulations promulgated thus far by the FCC affected cable systems of various sizes? I know the FCC intends to look into these and other relevant matters, and has initiated a survey of the majority of cable systems nationwide. I would like to participate wholeheartedly in the FCC's examination of these factual issues, and I will do so if confirmed. I also note that Representative Markey is chairing a hearing scheduled for September 28 which is intended to examine the preliminary results of rate regulation under the 1992 Cable Act.

After gaining an in-depth knowledge of the facts, I would, if confirmed, determine whether Congressional intent has been realized by the FCC's regulations implementing the 1992 Cable Act. If those regulations have had unintended consequences, they should be adjusted. In any event, I would be in close communication with Congress to make sure that you know how the Commission is implementing the statute and what the projected results of that implementation might be.

Question. Rural and small cable operators have indicated to me that the administrative burden of FCC cable rate regulations threaten the very viability of many smaller cable systems. I understand that the forms and instructions take up to 50 pages and the order itself is more than 500 pages. Also, operators are required to complete a different set of forms for every system, even if they have less than 50 subscribers. What provision for relief should the FCC make for the onerous regulatory burden it places on small cable operators?

Answer. This is certainly an issue of concern, and I know Congress directed the Commission to study how small cable systems would be affected by rate regulation under the 1992 Act. At this time, the Commission is considering to what extent small cable systems should be relieved from rate regulation under the 1992 Cable Act. I will be very actively involved in that consideration, if I am confirmed.

Question. The construction of an advanced National Information Infrastructure Highway (NIIH) wherein technology converges into a seamless web of communications network computers, databases and consumer electronics is a national objective. Private sector firms are already developing and deploying that infrastructure today. What, if any, is the role of government in this process?

Answer. In significant part, this question expresses a vision of the future in which I strongly believe. I think that the FCC can and should play a role in implementing the Administration's National Information Infrastructure (NII) initiative. I would hope and expect that Congress also would engage in this effort; of course, its decisions may require action from the FCC. At the FCC there are various pending matters that relate at least indirectly to the information highway, and, while I do not wish to comment on these specific matters, the connection between them and the NII will be extremely relevant to me. In addition, the FCC will need to be attentive to the continuing efforts of the Administration to make policy recommendations in this area. In my view, it is imperative that the United States make progress in the construction of broadband networks. Without such progress we will imperil the international competitiveness of our economy and will lose significant export possibilities.

The convergence of different industry sectors also suggests that it is now appropriate to redefine and reaffirm universal service so the benefits of a broadband network can be available to all Americans on an affordable, accessible and fair basis. The Administration's NII initiative intends to undertake that examination. So, too, are various bills in Congress directed toward this goal. The FCC similarly can and should, in my view, participate in that re-evaluation of universal service.

QUESTIONS ASKED BY SENATOR BURNS AND ANSWERS THERETO BY MR. HUNDT

GENERAL QUESTIONS

Question. What unique qualities would you bring to the FCC that would benefit the public?

Answer. For the past ten years. I have helped develop the communications law practice at my law firm. My clients have been from the cellular, telephone, broadcasting, programming distribution and satellite industries, among others. In representing these clients, I have become familiar with such complex communications issues as telephone company regulation, cable programming access, minority rights, indecency, First Amendment, merger policy, and new technologies. In addition, I have had a broad litigation experience of eighteen years in antitrust, commercial, and intellectual property matters.

I believe my antitrust expertise gives me a particularly relevant background for tackling the complex issues facing the Commission.

I have spent a significant amount of my legal career involved in issues of public policy. For example, I have represented public interest groups and indigent clients.

In addition I have spoken and written on antitrust policy, and advised the Vice President on economic and antitrust issues. I also participated in advising the President, through the economic policy group formed during the transition.

I believe I would bring to the Commission an understanding of telecommunications technology and policy, a knowledge of the key industries, experience in developing legislative and regulatory solutions to complex problems, and a fresh perspective on current problems. Most importantly, I would bring a deep commitment to public service.

Question. What initiatives would you undertake at the FCC, if confirmed? What issues are of particular interest to you personally? In general, what changes would you like to make in the policies and procedures of the FCC?

Answer. If confirmed, I would commit to carry out the intent of Congress as expressed in its delegation of authority to the FCC in the Communications Act. Within that context, my aim would be to achieve two general objectives. The first is to promote economic growth for the American economy, and specifically to facilitate increases in productivity gains that can help reverse the continuing decline in real wages for American workers. The second objective is to ensure that the benefits of our communications systems are accessible to all Americans at affordable prices: No one should be left out of the communications revolution.

Question. How would you characterize the relationship between the FCC and Congress and the FCC and the Clinton Administration in selling national telecommunications and information policy? Do you feel any special obligation to the Congress or the Clinton Administration in helping to develop policy positions for the FCC?

Answer. The FCC exists because of Congressional action. Its mandate is implementing the intent of Congress, as expressed in legislation, in areas within the agency's jurisdiction. The relationship between the FCC and the Administration should be cooperative in areas where they share a common purpose. For example, as acknowledged in the Administrations National Information Infrastructure (NII) initiative, the FCC is charged by law with authority over a number of issues relevant to implementing the NII. The FCC's role in implementing the NII will be to cooperate with Congress and the National Telecommunications and Information Administration (NTIA) to ensure that the NII is implemented in a manner that serves the public interest and fulfills Congressional mandates. In general, new policies adopted by the FCC must be consistent with the agency's statutory mission. In addition, as an expert agency, the FCC should maintain and increase its high level of expertise and make that expertise available in discussing communications policy with members of Congress and the Administration.

Question. What is your personal regulatory philosophy vis-a-vis the telecommunications and information industries? More specifically, what is your attitude toward competition as a substitute for regulation in the telecommunications and information industries? How would you characterize the quality of competition in the long distance industry? the local exchange industry? the cable television industry? the broadcasting industry? the international services industry? the enhanced services industry?

Answer. I believe we should attempt to understand how markets for goods and services in the telecommunications and information sector work or, in some cases, do not work efficiently. Generally speaking, competition can serve the public interest by maximizing output, lowering prices and increasing the number and variety of services available to the public. However, I believe regulatory or deregulatory steps should be taken as necessary to have markets that work efficiently, maximizing the benefits to consumers and the American economy.

It appears to be widely believed that competition is increasing in local exchange services but, to my knowledge, the Commission has not yet determined local exchange services markets to be competitively priced. It also appears that there has been increasing competition in long-distance services and enhanced services. In the Cable Act, and in the FCC's regulations implemented thereunder, it was determined that most geographical markets for delivery of cable programming were not competitively priced. There are a number of other relevant markets where various levels of competition are generally asserted to exist.

If confirmed, one of my primary goals would be to analyze vigorously the levels of competition in all the various markets and submarkets that are subject to the FCC's jurisdiction.

Question. It is, I believe, accurate to characterize our national telecommunications policymaking as a fragmented hodgepodge of often conflicting directives and counterdirectives, proposals and counterproposals and legal proceedings. The Congress, the Department of Justice, the Department of Commerce (NTIA), the FCC, the courts, and the various segments of the private telecommunications and information sectors are all involved and have a point of view. The bifurcated jurisdictional scheme created by the 1934 Communications Act with shared responsibility between the federal and state government adds to the confusion. This, of course, is in contrast to the way many other countries implement their telecommunications policies wherein cabinet-level ministries are fully dedicated to telecommunications issues. Do you believe any restructuring of the communications policy apparatus is appropriate, and if so, what changes will you recommend as a member of the FCC, if confirmed?

Answer. I believe that the current U.S. telecommunications policymaking apparatus deserves significant credit for major accomplishments. The federal-state relationships are complex and constantly are being reviewed by the participants. This review should be reinvigorated, but I doubt that the apparatus itself needs major restructuring.

Question. Given the Clinton-Gore Administration's stated goal of "reinventing government" by streamlining and reducing government regulation, how do you plan to implement that objective at the Commission, if confirmed?

Answer. I personally endorse this goal and look forward to the opportunity, if confirmed, to assess its application to the FCC. However, before being confirmed it would be premature for me to try to give a comprehensive assessment of the FCC's

operations. If confirmed, I hope to learn very quickly, from inside of the agency, about the FCC's internal operations and any impediments to the effective delivery of services the agency is supposed to be supplying to its customers—who include not only the regulated industries but more importantly the American people. I expect that, if I am confirmed, the precepts on “reinventing government” set out in the Administration's National Performance Review would provide an excellent framework to begin to analyze the ways in which the FCC can improve its operations. I also want to listen to the individuals at the agency who know the Commission's areas of expertise and excellence the best, and may know its weaknesses as well. One specific example I can cite, because it has been raised with me by so many at the agency in informal conversations I have had over the past few weeks, is the widespread view that the FCC should be (but is not) an emblem of the communications technology and services it is charged with regulating. Many improvements in the way the agency operates may be possible through both better use of technology and better management of human resources.

Question. What role will you play in the development of international telecommunications and information policy? What is the role of the NTIA and the State Department in the development of international telecommunications and information policy? Should there be a restructuring of this international policy apparatus?

Answer. The FCC should play an active role in the development of international telecommunications policy through the exercise of authority over such matters that has been delegated to it by Congress. The FCC's role involves both its domestic and international regulatory policies and its interaction with the Department of State, NTIA and the United States Trade Representative. For example, the FCC has historically been active in international market access issues in its accounting rates and international settlements policy, separate satellite systems policy, and bilateral discussions. Each of the agencies mentioned in the question—the FCC, NTIA and the Department of State—has different statutory responsibilities and expertise; therefore, coordination is an extremely important aspect of developing U.S. policy in the international area. It is my understanding that, historically, the three agencies have coordinated their activities through regular meetings of the agency principals and their deputies. This regular coordination extends to all issues of common concern with the actual coordination process depending on the nature of the issue being addressed. It is premature for me to comment on whether this international policy apparatus should be restructured. However, if confirmed, I would be committed to continuing and strengthening the FCC's contribution in these areas in order to promote the global competitiveness of U.S. telecommunications and information equipment and services.

Question. For the past 12 years we have had a divided government. Although much has been written about the problems associated with government gridlock, there are benefits also. One of those benefits is that there is a pressure placed on the system to reach compromises based on the fact that one party did not hold all of the power levers. Another benefit is that the need to fashion compromises has lessened the chance that hasty decisions are made. Of course, the FCC is specifically intended to operate in a bipartisan fashion. Now, however, we will have a Democratic Administration, Democratic Congress, as well as being short of one minority member at the Commission. Do you think there is a problem created by this lack of balance? What sort of assurance can be provided to the minority that their rights will be fully respected? Are you at all concerned that the Commission will be making major decisions, such as on switched interconnection, PCS, and the rules governing the new spectrum auctions without adequate input for both sides of the aisle?

Answer. The FCC's mandate is to carry out policies embodied in statutes enacted by Congress. The Commission should be responsive to all members of Congress concerning areas within the agency's expertise and delegated authority. Many, if not virtually all, the issues before the Commission and Congress in the communications area are not distinctly partisan, but nonetheless are immensely difficult to resolve. People of good will and commitment from both sides of the aisle can and will, I hope, meet, confer, and compromise to resolve these issues. I would like to do my part to facilitate and enrich this process, and I hope that I personally earn the trust of members of Congress of both parties. I certainly intend to involve both sides of the aisle in all matters before the Commission, if confirmed.

Question. What input do you as, Chairman of the FCC, expect to have on the appointment of future Commissioners?

Answer. As you know, the President, with the advice and consent of the Senate, appoints FCC commissioners. If confirmed, I would provide any advice he might request, but the decision will be made by the President.

Question. Are there any matters you expect to come before the Commission which you feel you would have to recuse yourself?

Answer. The Office of Government Ethics and the FCC's Office of General Counsel have reviewed the recusal issue and will guide me in this respect. As of now, they have not identified any major matters pending before the Commission as to which I should recuse myself. If confirmed, I will continue to seek the advice of the General Counsel of the FCC as to recusal matters.

NATIONAL INFORMATION INFRASTRUCTURE

Question. Through a confluence of interests, a multimedia, digital technology revolution is bringing together a broad cross-section of industries that have heretofore considered themselves unrelated. Over the balance of this decade and into the 21st Century, this digitization phenomenon will revolutionize the communications industry, have profound implications for the consumer electronics, entertainment and computer industries, and change our way of life forever.

By taking bold, forward looking actions to accelerate the deployment of advanced telecommunications networks we could markedly improve our international competitiveness posture and dramatically spur domestic economic growth, productivity and job creation. Furthermore, through advanced educational, health care and other social services made possible with advanced telecommunications technology, we can establish a quality of life for all Americans which is unparalleled in our nation's previous history. And through increased use of "telework" we will reduce our reliance on foreign sources of oil, have a positive impact on environmental concerns and help parents deal with child care and other family concerns.

As you know, during the last Congress Vice-President Gore and I introduced legislation calling for the development of an advanced, broadband communications infrastructure—a national information infrastructure—connecting every home, hospital, school, and business in the U.S. by the year 2015.

If confirmed, what would you do to promote American technology, and more specifically, do you support, and would you actively encourage, the development of a broadband "information highway" as Vice President Gore and I have proposed?

Answer. In significant part, this question expresses a vision of the future in which I strongly believe. I think that the FCC can and should play a role in implementing the Administration's National Information Infrastructure (NII) initiative. I would hope and expect that Congress also would engage in this effort; of course, its decisions may require action from the FCC. At the FCC there are various pending matters that relate at least indirectly to the information highway, and, while I do not wish to comment on these specific matters, the connection between them and the NII will be extremely relevant to me. In addition, the FCC will need to be attentive to the continuing efforts of the Administration to make policy recommendations in this area.

Question. The consequences of the fractured state of U.S. telecommunications policymaking has become especially apparent in the context of trying to develop a National Information Infrastructure which includes the public switched telephone network cable television, over-the-air terrestrial broadcasting, private communications networks, cellular, microwave and satellite transmission facilities, and other transmission technologies.

Taken together, these technologies will serve as "electronic highways" that will support America's new information-based economy.

Isn't it time that we try to rationalize and make sense out of this hodgepodge of interests so that delivery of the multimedia services (voice, data, graphics and video) made possible by these technologies will be universally available—linking every business, educational institution, and residence? Shouldn't our government be encouraging and promoting a coordinated and coherent national telecommunications policy?

Answer. The various federal and state authorities involved in telecommunications policymaking have different jurisdictions and goals. The role of the FCC, as defined in the Communications Act, is "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." If confirmed, I will seek to ensure that new policies adopted by the FCC are consistent with that statutory mission and the FCC's public interest mandate. Within these parameters, I believe the Commission should coordinate with other policymaking bodies and bring its expertise to bear on the issues within its jurisdiction. I understand that the Administration has begun a review of our national communications and information policies and this review may well address the topic mentioned in your question.

Question. Critics of integrated multimedia, broadband networks say such networks are technically feasible at this time nor economically desirable. Other govern-

ments have reached the opposite conclusion, have they not? If we don't move forward with a plan for broadband, feature-rich networks, don't we risk falling behind our international competitors?

Answer. Such critics are strongly opposed by advocates of a different view, as far as I am able to judge reports on this issue. In my view, it is imperative that the United States make progress in the construction of broadband networks. Without such progress we will imperil the international competitiveness of our economy and will lose significant export possibilities.

QUESTION. NTT is aggressively pursuing the deployment of broadband technology in rural Japan through its "Teletopia" project. Should the United States have a similar plan for rural America? If so, how might we go about it here in the United States?

Answer. The convergence of different industry sectors suggests that it is now appropriate to redefine and reaffirm universal service so the benefits of a broadband network can be available to all Americans on an affordable, accessible and fair basis. The Administrations NII intends to undertake that examination. So, too, are various bills in Congress directed toward this goal. The FCC similarly can and should, in my view, participate in that re-evaluation of universal service. From what I understand of NTT, however, it is an imperfect analog for our country.

Question. In her testimony before a House Subcommittee last Congress, then Assistant Secretary of Commerce Obuchowski testified that there is cause for concern because it appears that the United States may lag some of its trading partners in the deployment of advanced switching and signaling technology. In your view why should we be concerned; and what should we do about it?

Answer. The FCC should play an active role in the promotion of U.S. economic interests abroad, through the exercise of authority that has been delegated to it by Congress. Ms. Obuchowski's observation should lead to careful monitoring of the facts in this area, because the deployment of these technologies almost certainly promotes international competitiveness and our trading posture. There are many steps that can be taken, once the facts and the causes of these facts are clearly determined. I would propose to pursue this issue with urgency, if confirmed.

Question. It seems fairly self-evident to me that the opportunity for telephone companies to provide video programming and for cable companies to provide telephone services will increase and accelerate both industries' incentives to construct integrated broadband network facilities to carry those services to the home. In turn, those facilities would make available a vast array of multimedia, voice, data, and video services. Do you agree?

Answer. Your question implicates both ongoing litigation and pending FCC proceedings about which it would be inappropriate for me to comment. However, in general I support regulatory action which tends to afford the benefits of competition to the consumers, without exposing them to monopolistic practices in some other area. I tend to think that competition is likely to facilitate the rapid construction of broadband networks.

Question. With respect to the FCC's Docket No. 87-266 (Telephone Company-Cable Television Cross-Ownership Rules), it has been said that mandating the creation of video gateways without permitting telephone companies to be among the service provided over those gateways imposes substantial costs with virtually no corresponding benefits. In your opinion, is video dialtone enough to provide incentives for the deployment of a modern, feature-rich infrastructure by local exchange carriers?

Answer. Video dialtone experiments and trials are currently in their initial stages, and I would need to learn more specific facts about these developments. Without more information, I cannot state definitively whether video dialtone is sufficient to provide incentives for telephone companies to invest in a "modern feature-rich infrastructure." This question calls for, among other things, expert economic opinion and fairly extensive factfinding. I think it is an extremely important question, however, and I intend to pursue it, if confirmed.

Question. During Subcommittee hearings in the last Congress, one witness said "We already have the communications infrastructure necessary to provide all of the services envisioned in the Information Age." Do you agree?

Answer. It is impossible to predict exactly what services will be delivered in the future by means of our national communications infrastructure. I do not believe government needs to be an accurate predictor of future product markets in order to determine whether to promote the creation of the infrastructure. Nor do I think that the current infrastructure in itself, as it exists today, is sufficient to deliver all future services to all Americans at reasonable prices.

Question. One of the concerns that has been expressed by opponents of telephone company entry into video, cable and information services has to do with a common

carrier acting as a programmer. This, the opponents say, could be inconsistent with the telephone company's responsibility as a common carrier "to hold itself out indiscriminately to all."

Can this objection be answered by requiring telephone companies to have structurally separate subsidiaries for their video and information services, and have their control limited to say 25 percent of the total channels offered? Do you believe that there are efficiencies in permitting dominant carriers to offer video and information services without structural separation? Do you believe that non-structural safeguards such as cost allocation and information disclosure rules, adequately protect against discriminatory activity by these carriers?

Answer. I do not want to comment on specific matters currently under consideration by the FCC. Among other things, I have not had a chance to review the complete records made in these matters. In general, if carriers in fact dominate a particular market, consumers may need to be protected from anticompetitive behavior. I am aware, however, that many at the Commission are reluctant to endorse the separate subsidiary approach as a cure for all concerns about market power. Other structural safeguards are always under review for adequacy and efficiency. These are all matters I need to explore in detail at the FCC, if I am confirmed.

Question. If telephone companies construct a broadband delivery system, would it be reasonable to expect telephone companies to adopt an exclusionary policy with regard to access by third party programmers or other information service providers to this broadband system, regardless of whether the telephone company provides video services through a separate subsidiary?

Answer. From an economic perspective, it is not clear what would motivate the constructor of a delivery system from barring access by third parties. Generally, the owner of the delivery system would prefer to deliver as much product as possible. In any event, the FCC's video dialtone and related rules generally bar telephone companies from the behavior described in the question, regardless of whether the telephone companies themselves provide video programming or other information services.

Question. If investment in our nation's telecommunications infrastructure is an important public policy objective, would you agree that the policy enforcing the MFJ line-of-business restrictions on the Regional Bell Operating Companies conflicts with this objective at least in the sense that it lessens the incentive for seven of the nation's top 30 corporations with considerable capital assets to make the levels of investment necessary to upgrade the public infrastructure?

Answer. The MFJ has been a vital means of guiding the divestiture of the seven Bell regional holding companies and facilitating an orderly transition to competitive markets. As the history of the MFJ reveals, in the past 10 years technological developments have fundamentally altered the communications landscape. Whether the line of business restrictions ought to be modified is an issue I would like to reexamine. I would expect that examination to include an analysis of the levels of competition in each of the relevant markets as well as the incentives and disincentives for investment that exist under current law.

Question. The incentive for companies to invest in research and development obtains from a reasonable expectation that they will be able to earn profits on the sale of products or services derived from successful R & D efforts. Do you believe that the MFJ line-of-business restrictions take away the incentive for the seven Bell companies to invest in R & D on their own or in cooperation with other domestic companies? And as a consequence, do you understand that they significantly under-invest in research and development compared with similarly-sized companies in the telecommunications industry?

Answer. I do not believe that incentive is extinguished by the MFJ, but I do not know the details of comparative investment rates among the affected firms and between the BOCs and other companies. If there is under-investment, that is good cause for examining anew the incentives provided by the MFJ.

Question. There is a double irony involved here in the sense that the domestic line-of-business restrictions are like directional arrows inciting the Bell companies to invest in foreign countries and outside their region (e.g., the Time Warner-US West deal) due to a relatively greater opportunity to earn on their own investment. So we have a situation where seven of our nation's leading telecommunications companies have a relative greater incentive to invest in the telecommunications infrastructures of other countries and outside their region than they have to invest here as a condition of our domestic policy. Would you agree at least conceptually that the policy in effect is counterproductive to achieving our infrastructure development goals?

Answer. To the degree that American shareholders and employees benefit from the foreign investment activities of the Bell companies, these activities are beneficial

to our nation. On the other hand, continued and even accelerated investment by these companies and others in domestic infrastructure is imperative. Our policies should not discourage investment domestically.

Question. As part of our commitment to enhancing the nation's telecommunications infrastructure and certainly before we undertake to finance its constructions with massive amounts of public funds, should we remove or modify the line-of-business restrictions and the cable-telco cross-ownership ban which would enable private sector telecommunication companies to freely and fully invest in the infrastructure development?

Answer. As previously noted, if I am confirmed, the FCC will examine the efficacy of and need for these regulations, and that analysis will include consideration of the current levels of competition in each of the relevant markets, as well as the incentives and disincentives for investment in the telecommunications infrastructure created by existing regulations.

Question. NTIA's Infrastructure Report concluded that elimination of the cable-telco prohibition and information services restriction will remove significant impediments to the introduction of services and capabilities that enhance the use and performance of the U.S. telecommunications and information infrastructure. Do you agree with that conclusion? Would you elaborate on this conclusion?

Answer. Since the release of NTIA's Infrastructure Report in 1991, significant changes in technology, regulation and the marketplace have occurred. For example, the information services restriction of the MFJ was removed in 1991, and in 1992 the FCC adopted its "video dialtone" rules substantially altering the telco-cable cross-ownership rules. It would be appropriate to update the analyses of the issues covered in NTIA's report and to consider recent developments in making future regulatory decisions.

Question. NTIA's Infrastructure Report also concluded that telecommunications and information infrastructure would be enhanced if a policy of opening the local telephone exchange to greater competition were pursued. Do you agree with that conclusion? Would you elaborate on this conclusion? Specifically, would you specify the conditions you believe would be necessary to creating greater local exchange competition? Do you believe that local exchange competition is promoted by unbundling network services and facilities elements, interconnection to those unbundled elements, resale capability, eliminating franchise restrictions, access to conduits and right-of-ways, and number portability, for instance? How do we deal with universal service concerns raised by greater local exchange competition? Will private and public sector entities have responsibility for ensuring the continuation and enhancement of universal service?

Answer. Generally speaking, competition in a market can serve the public interest by maximizing output, lowering prices and increasing the number and variety of services available to the public. Without commenting on matters that are pending before the FCC, I can say that if confirmed, I would energetically undertake the important task of defining the local exchange market and submarkets, and carefully analyze the level of competition in each, as part of any consideration of whether to further open the local exchange market to competition. I would also consider how regulatory processes can be streamlined so as to reduce the burden on the economy. As for universal service, there is no doubt that the methods by which universal service has been implemented have changed over time as markets and technologies have changed, and it is certain that these methods will continue to change. Furthermore, the convergence of different industry sectors, driven by technological innovation, strongly suggests that it is appropriate at this time to reexamine the definition of universal service. I believe that, as competition is introduced to more and more parts or "the network," and as multiple networks emerge, the burden of funding universal service must be shared broadly.

Small telephone companies have historically provided and are providing an invaluable contribution to universal service, particularly in those rural areas where the large telephone companies may not have had the responsibility of providing basic service. FCC regulatory policies must recognize the continuing importance of these rural telephone companies to the national telecommunications infrastructure.

Question. Generally speaking, what is your view of proposals by telephone companies such as Ameritech and Rochester, which propose to open up their local telephone exchanges to competition and, in return, receive greater regulatory and legal relief from cable-telco, MFJ and other restrictions on their business activities? Ameritech, for instance, has articulated a vision in which they foresee a fully integrated network of networks from which multiple providers would compete to provide a full range of voice and broadband services to consumers and business customers. Do you believe that such a competitive model, open to all providers, has the poten-

tial to deliver the most that available technology can bring to telecommunications users?

Answer. I will be evaluating the Ameritech and Rochester proposals if I am confirmed and therefore it would be inappropriate for me to comment on the specifics of those proposals. In general, the Commission must carefully evaluate any plan to introduce competition in a particular market to determine, among other things, whether and how competition would serve the public interest and the extent to which regulatory safeguards would be necessary to ensure that the potential benefits of a competitive market could be realized. More specifically, the Commission's analysis must include consideration of the incentives to provide a variety of services at reasonable prices, and the effect of competition on universal service.

Question. Do you believe that electric utilities have a role to play in the National Information Infrastructure?

Answer. I am intrigued by the possibilities presented by the electric utilities' extensive networks. If I am confirmed, I would look forward to considering the role that electric companies could play in providing telecommunications services to homes and businesses.

Question. What is your view of flexible spectrum use, i.e., a policy that permits spectrum licensees, subject to interference limitations, to provide various services. For instance, should America's broadcasters be permitted to provide services other than broadcast services if technology permits?

Answer. Spectrum management is among the FCC's important statutory missions. If confirmed, I will review the FCC's current spectrum management policies and consider ways in which the Commission can improve spectrum management to maximize the economic potential of this national resource and to permit licensees to better serve the public.

Question. Do you see an important role for government in establishing interconnection and interoperability standards and protocols?

Answer. In the telecommunications sector, effective standard-setting has been an important task of government. In the future, interconnectivity and interoperability standards and protocols will be important to the development of seamless, interactive, user-driven networks capable of advanced telecommunications and information applications.

Question. Will it be an important objective for you to achieve greater regulatory parity in our telecommunications and information policy scheme so that like services and facilities providers are treated similarly under our regulatory scheme in deploying a National Information Infrastructure?

Answer. The Omnibus Budget Reconciliation Act of 1993 requires the FCC to reconcile the way it regulates mobile services that have become increasingly similar over time. If I am confirmed, the implementation of this statute will be one of the important proceedings I will be involved in during my first few months at the Commission, and I look forward to reviewing the record that is developed in this proceeding. In general, it is appropriate for the Commission to periodically reexamine its regulation of like services and ensure that it does treat like services similarly.

Question. As you well know and understand, the private sector is building many telecommunications networks which constitute our telecommunications and information infrastructure. This includes cable television companies, telephone companies, cellular, alternative access providers, computer networks, over-the-air broadcasting, wireless cable, satellite, electric utilities, and many other network providers. I do not believe that it is appropriate for the government to build, operate and/or manage competing telecommunications networks. If government money is authorized and appropriated, it should be limited to basic research and development, user-friendly applications and training programs to help educators, health care professionals and other users obtain needed information, and development of interconnection and interoperability standards and protocols. Do you believe that the government should own, operate and manage telecommunications or information networks which compete with those private sector networks established by private sector telecommunications and information companies? How should the network be managed and by whom?

Answer. The statutory role of the FCC is defined in the Communications Act: to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges. The FCC's statutory mandate is to establish, through regulatory policies, an environment which fosters the growth of information and telecommunications networks that serve the public interest. To that end, the Commission's policymaking activities should take into account incentives and disincentives for private investment in the network and the creation and offering of services. I believe that government will continue to have a variety of roles

with respect to the network, including but not limited to standard setting, maintaining competitive markets, and guaranteeing universal service as that may come to be defined.

Question. Do you believe that replacing cost-based regulation with a form of "price cap" regulation of the dominant carriers would serve the public interest by promoting infrastructure modernization? Do you believe that there are alternatives that would serve the public better than either of these two methods?

Answer. The goals of price cap regulation—to keep prices at a reasonable level while providing incentives for carriers to operate more efficiently—are good ones. In general, in analyzing rate regulation, one should consider whether regulation is necessary and, if so, what type of regulation will maximize the benefits to the public, including lowering the cost of services, increasing the number of services, producing better services, providing services to the greatest number of people, and stimulating economic growth. The FCC has already had experience with both rate-of-return regulation and price caps with respect to AT&T and the large local exchange carriers. If confirmed, I will look forward to examining in detail the FCC's experience with both regulatory policies as the Commission reviews the results of its changes in regulation over the past few years.

Question. Can depreciation reform be a tool for infrastructure modernization? I understand, for example, that different providers, such as cable companies and telephone companies, depreciate the same equipment at different rates. Wouldn't giving telecommunications firms greater flexibility to accelerate their depreciation schedules promote competitive equity and infrastructure modernization?

Answer. Depreciation rates are an important consideration in encouraging infrastructure investment. The FCC recently took steps to simplify the depreciation prescription process for AT&T and price cap regulated local exchange carriers, and I am very interested in examining the details of what they have done when that decision is released. If confirmed, I will be examining the effects of those reforms and depreciation rate regulation generally.

Question. Some have suggested that the US Government look at Japan's Ministry of International Trade and Industry (MITI) for guidelines on how to more proactively adjust and direct U.S. industry, domestically and internationally. Others have expressed concern, arguing against any sort of "industrial policy" which picks winners and losers. What are your thoughts?

Answer. I tend to approach the prospect of "picking winners" with great trepidation and a sense of humility. I do believe, however, that various governmental actions can support the private sector by providing incentives for investment and development of new technologies and services. By generally acting so as to advance the interests of firms in the telecommunications and information sectors, and correcting any market failures to the degree possible, the government can in effect help the markets themselves pick the winners.

Question. The U.S. telecommunications manufacturing industry has expressed deep concern over the actions of the European Telecommunications Standards Institute, or ETSI, a creation of the European Commission. That organization, with the apparent support of the EC, is considering implementing a policy which in many cases would take over world-wide control of American patents and technology. How would you view this matter, and what would you do to aid U.S. telecommunications manufacturers if you are confirmed?

Answer. The FCC can and should be involved in international telecommunications policy, including the international standard-setting process. Through participation in international conferences and bilateral discussions, the FCC can be a leader in the standard-setting process that is so important to the success of U.S. equipment and services overseas. The problem raised in your question is a serious one for American manufacturers; I believe the ETSI policy to which you refer is being challenged by the U.S. computer industry. I understand that the FCC does send an observer to ETSI meetings. If confirmed, I would like to see that sufficient FCC resources are devoted to this issue, and I look forward to working on important telecommunications trade issues such as this in cooperation with the State Department, NTIA and USTR.

COMMON CARRIER

Question. The Senate Commerce Committee is currently considering legislation which would preempt the states in such a way as to make it easier for competitive access providers to enter the local telephone business. Do you think this is wise telecommunications policy? What role, if any, do you think the states should maintain in the regulation of local telephone service in a competitive environment?

Answer. I think the states have and will continue to have very important role in telecommunications policy. Among other things, it will probably be very wise to look to the states as the primary providers of such "subsidies" or other incentives as may be necessary to guarantee universal service. Preemption of states on any issue should not interfere with this goal or other important goals of state regulation. A decision to preempt state regulation must weigh the benefits of removing the potential conflict between federal and state policies, against the potential benefits flowing from the states serving as laboratories for regulatory experimentation.

Question. Recently, several members of this Committee as well as several members of the House of Representatives wrote to acting Chairman Quello suggesting that several studies, including internal FCC research, have indicated that there are substantial implicit subsidies built into the pricing of local telephone service which help keep rural and residential phone rates affordable. One recent study sponsored by the US Telephone Association suggested that the support level may be approximately \$20 billion. These supports are distinct from the well know explicit supports such as the Universal Service Fund. Given the Commission's recent actions on switched and special access and pending legislation which would make it easier for competitors to capture the business which is currently supporting the local telephone rate structure, how would you propose that we maintain universally available telephone service at the current affordable rates?

Answer. This is a very complex question and one that requires substantial study. Universal service concerns must certainly remain a prime consideration as the local exchange services market becomes more competitive. I am firmly committed to universal service, and fully recognize that the transition to a more competitive marketplace must not be allowed to undermine this goal. I believe that, as competition is introduced to more and more parts of the network, and as multiple networks emerge, the burden of funding universal service must be shared in an equitable manner by all relevant parties.

Question. "Universal service" has for decades meant POTS, plain old telephone service, at just and affordable rates. What is your definition of universal service? Should that definition be changed with the coming information revolution? What should be the Commission's role in maintaining universal service or expanding it in light of new technologies, new participants in the market and new regulatory structures?

Answer. Universal service needs to be reaffirmed, reanalyzed and redefined as the communications technologies are digitized and as they converge. Any new definition needs to be developed as part of a process involving Congress, the FCC, the Administration, and all affected parties. The communications revolution will not make this issue disappear.

Question. When competitive access providers choose to compete with local telephone companies they naturally choose to compete in the more profitable markets and offer service at lower rates, which are possible because they don't have the same universal service obligations that the local telephone company has. If we are to spur the trend towards increased competition in the local loop, should we also give the incumbent telephone company greater pricing flexibility to respond to the competitor or should we maintain the current regulatory structure?

Answer. This is also a very complex question. What is necessary is agreement on the ultimate vision of competition for certain services in certain markets. Any concept of universal service that will endure for many years must reflect subsidization by all competitors in all competitive markets. One of my first missions, if confirmed, would be to analyze relevant markets in this light.

Question. In the recently passed spectrum legislation, Congress stated that the Commission should provide special consideration to a number of groups such as small businesses and rural telephone companies. The final conference report does not include a definition of a rural telephone company, although the Senate Bill, on which the rural telephone preference was based, does. (i.e., a telephone company services an area of fewer than 10,000 homes or a company with fewer than 10,000 customers). When you consider the rules under which the auctions will be held, will you be using the definition contained in the Senate bill, or will you be using some other definition, and if so on what basis would you be choosing to stray from the Senate intent?

Answer. The FCC adopted a Notice of Proposed Rulemaking at its September 23, 1993, open meeting to implement its new auction authority. Although the Notice itself has not yet been released, the press release issued by the Commission indicates that the Commission is seeking comment on how to define small business, rural telephone companies, and businesses owned by minorities and women for purposes of competitive bidding rules. Any final decision on how to define rural telephone

companies will have to be evaluated in light of the comments received and the intent of Congress.

Question. The recent US District Court decision, that held that the prohibition on telephone companies providing cable programming in their service area was unconstitutional, has been a catalyst for the Congress to consider legislation which would regulate local telephone companies that choose to provide cable service within their service areas. Do you believe that the local telephone company entering the cable market should be subject to regulation that is greater than that applied to the local cable company that is currently serving the area, or should there be regulatory parity between the two competitors? If you think the regulation should be unequal, why?

Answer. The appropriate degree of regulation for new competitors in existing markets is an important question for telecommunications policymakers and one with which the Commission has grappled. With the recent decision, and pending legislation, it is likely the Commission will have to do so again. In fashioning regulatory policies to govern telephone companies' entry into the cable market, I would expect the FCC to examine whether equal regulatory treatment of such competitors will best serve the public interest. I would also expect the Commission to examine which appropriate safeguards would best ensure that no entrant can engage in anti-competitive behavior.

Question. Several cable companies have announced their intention to begin to provide telephony service that would compete in the market currently served by the locally franchised telephone company. Do you think a cable company that holds a cable franchise should have to get a second franchise to compete with the local telco? Should the local telco have to get a second franchise to compete with the cable provider? If there is competition in these markets, do you think we need to structurally separate the cable and cable affiliates which are competing with each other, or should we allow the fact that both companies are competing in both markets to be our safeguard?

Answer. I believe that issues regarding the appropriate obligations for cable and telephone companies that compete in the same markets are extremely important. I would expect that as firms in formerly distinct markets compete, the Commission will be required to address such questions and decide upon the regulatory framework that would best serve the public interest. In the FCC's video dialtone proceeding, the Commission stated that local telephone companies providing video dialtone service did not require local cable television franchises, as such service was not "cable service" over a "cable system." To the extent that telephone companies move to offer video services beyond video dialtone, the Commission may appropriately examine whether cable television franchises are needed and whether a cable franchise requirement for telephone companies is consistent with Congressional intent as expressed in the 1984 Cable Act.

Question. The recent budget reconciliation bill included new user fees which require companies to pay for the services that are provided by the FCC. One of the factors that made these fees necessary was the need to implement the Cable Act of 1992 which acting Chairman Quello has estimated will require about 40 percent of the Commission's budget. As we move into competitive markets in the cable and local telephone service, should we maintain the same level of regulatory scrutiny of these industries? Can the FCC accommodate the sort of additional burden that was placed upon it in the Cable Act if and when the local loop becomes competitive? And at what point, if any, should the regulation sunset? In a more general sense, what should the role of the FCC be in competitive markets?

Answer: As markets become more competitive, the FCC must continue to assess whether and how its regulatory role should be modified. Traditionally, regulation of local telephone service was developed in the context of monopoly markets. Similarly, much of the regulation applicable to cable television service providers was developed with the assumption that cable television generally did not face effective competition. Increased competition in both the telephone and cable markets should cause the Commission to reexamine the appropriate level of regulation necessary to achieve public policy goals and serve the public interest.

MASS MEDIA

Question. Many have suggested that broadcast regulation should follow the "print" model because there is no longer a scarcity of broadcast spectrum, while others have taken the position that regulation is justified because spectrum is scarce. Where do you stand on this issue and why?

Answer. My own mind on this issue is not made up in the absence of a record to review. However, in analyzing this issue the question of spectrum scarcity is al-

ways appropriate for consideration, and I would fully expect such an analysis also to include consideration of whether regulation has a "chilling" effect on free speech.

Question. Do you believe that the FCC was correct in repealing the so called Fairness Doctrine? Do you favor reimposition of the Fairness Doctrine by the Congress or FCC? As an attorney how do you come out on the question of whether the so called Fairness Doctrine is constitutional under a First Amendment analysis?

Answer. I have not had an opportunity to review the record that was before the FCC when it repealed the Fairness Doctrine, but it seems clear to me that any analysis of its constitutionality must take into account both the importance of the governmental interest underlying the doctrine and the possibility that the doctrine would have a "chilling" effect on speech. If Congress mandates the Fairness Doctrine, the FCC will effectuate the intent of Congress.

Question. In its decision repealing the Fairness Doctrine, the Commission indicated that several related policies may, in the Commission's opinion, be unconstitutional. Do you share that opinion? For instance, where do you stand on the political editorializing and personal attack rules as both a policy and constitutional matter?

Answer. I have not formed an opinion on the constitutionality of these rules, but if I am confirmed I will have the opportunity to study in detail both the rules and the history of their implementation.

Question. Do you support the Equal Time Rule as both a policy and constitutional matter?

Answer. The Equal Time Rule is statutorily mandated and therefore the FCC should enforce the rule. I support the ability of political candidates to have access to the public and to engage in an open debate on issues of public importance.

Question. In your opinion, should the FCC eliminate its rule limiting multiple ownership of media properties?

Answer. The FCC's rules on multiple ownership of media properties, like all market entry regulation, should be reevaluated periodically so that changing market conditions may be taken into account. The FCC currently is conducting proceedings to review some of these rules I do not wish to prejudge this issue. However, if confirmed I would welcome the opportunity to become more familiar with the record before the Commission. In determining whether the rules still are sound policy I would reexamine both the reasons for their adoption and the ways in which the current market may have changed since the rules were adopted.

Question. Should broadcasters have public interest obligations? If so, what should those obligations be?

Answer. I believe that broadcasters are public trustees. I also believe that spectrum scarcity underlies the requirement that they be responsive to the needs and interests of the communities they serve. With due deference to the First Amendment and the anti-censorship provisions of the Communications Act, I believe all broadcasters should focus on how they are serving local communities, including particularly families and children.

Question. What actions would you propose the Commission take concerning children's television programming?

Answer. I am aware of Congress' concerns about the amount of commercial material to which children are exposed and standards for children's programming generally, as embodied in the Children's Television Act of 1990. I also understand that the FCC is currently reviewing its rules implementing that Act to clarify the obligations of broadcast licensees under the statute. Without prejudging the Commission's rulemaking proceeding, I believe that the Commission should be faithful to the mandates of the Act and responsive to the concerns expressed by Congress that improvements be made in the amount and type of programming provided for children by broadcast licensees.

Question. What actions would you propose the Commission take concerning indecent, violent and sexually explicit television programming?

Answer. With respect to violent programming, as I understand it, the scientific community has produced a persuasive body of studies tending to confirm that certain types of dramatized violence in video programming has some effect on human behavior and perceptions, and particularly on the behavior and perceptions of children. I believe almost all Americans would prefer to see less violence in television programming, and I certainly would endorse that preference. Regulation on this topic is extremely challenging for a variety of reasons, including but not limited to First Amendment considerations. I am very mindful of these complexities. However, there are reasons to believe that technological innovation and an increasing consensus in society about excessive violence on television may lead to some breakthroughs in this area. I would hope that the Commission could be at the cutting edge in identifying solutions to this problem.

As with violence in programming, there is in this country a tremendous amount of concern with indecency in television programming. In particular, I think many Americans would not approve of generally available indecent programming at times when children are likely to watch that programming. The constitutional limits on the FCC's current regulations relating to "channeling" indecency in programming are under review in the U.S. Court of Appeals for the District of Columbia Circuit, and I would not want to comment on that pending case. However, as a litigator, I have always worked very hard to win my cases, and I certainly would do everything in my power to ensure that if the Commission issues regulations in this area those regulations would be affirmed by the court. Similarly, if the Commission metes out sanctions for indecency in radio broadcasts, I would do everything in my power to make sure that those sanctions withstand judicial challenge.

Question. Do you support the Commission's policies which encourage minority and female ownership of broadcast stations?

Answer. Yes.

Question. Do you favor must carry rules?

Answer. Must-carry rules are statutorily mandated. Therefore, if confirmed, I would vigorously enforce them. The rules as codified in the 1992 Cable Act are based on Congressional findings that they are necessary to serve an important governmental interest, and I do not dispute the findings of Congress on this issue.

Question. Do you support the Commission's recent decision related to the Financial Interest and Syndication Rules (FIRS)? If so, why? If no, why not?

Answer. As I understand it, the FCC based its decision regarding the Financial Interest and Syndication Rules on a reexamination of the purpose of the rules in light of current market conditions in the programming market, comparing those conditions with those in existence when the rules were enacted. Without studying this issue myself, I cannot give an opinion; but I generally support this approach to reexamination of FCC rules.

Question. What actions would you recommend to expedite the Commission's decisionmaking process on matters involving the mass media? We often receive complaints about the slowness with which the Commission's decisionmaking process moves.

Answer. It would be premature for me to try to give a comprehensive assessment of the FCC's decision-making processes. If confirmed, I hope to learn very quickly, from inside of the agency, about the FCC's internal operations and any impediments to the effective delivery of services the agency is supposed to be supplying to its customers—who include not only the regulated industries but also the American people. I expect that, if I am confirmed, the precepts on "reinventing government" set out in the Administration's National Performance Review would provide an excellent framework to begin to analyze the ways in which the FCC can improve its operations, including eliminating "red tape" that may hamper the agency's internal functioning, and finding creative technical and human solutions to application processing delays. If I am confirmed, I will work to ensure that regulatees receive from the FCC the most expeditious treatment possible.

Question. As I am sure you are aware, many Western states, and Montana, in particular, have many small communities rely heavily on cable television to provide entertainment and news information. What efforts will you make, if confirmed as Chairman, to ensure that these communities and their cable operators are not overburdened with government regulations stemming from the Cable Act of 1992?

Answer. I understand that matters are pending before the FCC relating specifically to this issue, and I would not want to comment on ongoing proceedings. I will say that the Cable Act clearly contemplates a separate regulatory regime for small cable systems and, if I am confirmed, I would work to make sure that the FCC implements the intent of Congress in this area.

Question. Do you believe that rate regulation of the cable television industry should be a permanent regime, or should it be used only as a temporary tool or transition to the type of competition which is the stated goal of this Cable Act?

Answer. The 1992 Cable Act expresses Congressional intent to foster competition in the multichannel video programming distribution market. Many of the Cable Act's provisions are designed to help bring about competition in the provision of video programming services. The Cable Act also provides for regulation of rates for certain kinds of cable services where effective competition does not exist. To the extent that effective competition emerges, I would expect that rate regulation would be rendered unnecessary.

Question. Like it or not, you will, if confirmed have to preside over any of the severe ongoing agency rulemakings concerning cable rate regulation that will not be completed by then. It is widely understood that, despite the best efforts of the agency's staff and Commissioners, that the so-called "benchmark" rules now under recon-

sideration as well as the cost-of-service rules are hopelessly complex and, in the view of many cable system operators, are currently drafted in ways that do not reflect business realities or generally accepted accounting practices, or do not allow operators to recover their existing debt in such a way as to permit them to expand and improve the delivery of cable services. As cable rate regulation is formulated, do you think is appropriate for the Commission to adopt transition rules under these circumstances?

Answer. If I am confirmed, I will make it a priority to obtain a detailed understanding of these matters as quickly as possible and act accordingly. I would not want to comment on matters that are pending before the FCC, and I understand that the agency is currently gathering further data.

SALE OF MONTANA TELEPHONE EXCHANGES

Question. In connection with the sale by US West of 60 rural Montana telephone exchanges to 6 Montana telephone cooperatives, the FCC has before a request for approval of waivers of the study area and price cap rules. The Petition For Waiver was filed with the FCC on July 26, 1993. If confirmed, will you commit to expeditiously ruling on the waivers?

Answer. It would be inappropriate for me to comment on matters currently before the Commission. If I am confirmed, I hope to ensure that all pending matters are given due consideration and acted on without unnecessary delay.

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